

OFFICE OF THE GOVERNOR
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February 28, 2022

National Park Service Director Charles Sams III
1849 C Street NW
Washington, DC 20240

Yellowstone National Park Superintendent Cameron Sholly
Office of the Superintendent
PO Box 168
Yellowstone National Park, WY 82190-0168

Re: Notice of Intent to Prepare an Environmental Impact Statement for a Bison Management Plan for Yellowstone National Park, Idaho, Montana, and Wyoming

Director Sams and Superintendent Sholly:

Thank you for the opportunity to offer comment on the National Park Service's (NPS) *Notice of Intent to Prepare an Environmental Impact Statement for a Bison Management Plan for Yellowstone National Park, Idaho, Montana, and Wyoming* (Notice).

For over 20 years, the State of Montana has been NPS' partner in the Interagency Bison Management Plan (IBMP). Developed as a product of litigation, the IBMP has served as a tool in coordinating respective actions taken by the sovereigns in relation to transitory bison dispersing from Yellowstone National Park (YNP).

The Montana Departments of Livestock (DOL) and Fish, Wildlife and Parks (FWP) have both submitted comments expressing their concern with the alternatives proposed in the Notice. While those comments are incorporated herein by reference, and are attached hereto for your convenience, I take this opportunity to make the following points.

- 1) **NPS should withdraw its Notice and engage in consultation with Montana to identify mutually acceptable alternatives because the success of the proposed alternatives is contingent upon Montana's cooperation and agreement.**

The Notice states that the proposed "plan will focus on actions the [NPS] may take to manage bison within [YNP]," but the alternatives identified either 1) expressly set forth activities to take place in Montana, or 2) are only successful with Montana's full and unmitigated cooperation. Notice, 87 Fed. Reg. 4,653 (Jan. 28, 2022). As Montana was not consulted in the formulation of these alternatives, NPS' alternatives are premature, and NPS should withdraw them and consult with Montana on mutually acceptable alternatives for presentation and analysis.

By way of example, I direct NPS to Alternative 3, where it states “[s]ubstantially larger harvests would have to occur outside the park for this alternative to be effective, which would require public and tribal hunters to allow bison to distribute and hunt them across a larger landscape.” *Id.* at 4,654. This alternative hinges on activity beyond NPS’ jurisdiction and assumes that 1) Montana would consent to a “larger landscape” and 2) has the capacity and motivation to manage a “larger” public harvest. These assumptions are incorrect.

For over two decades, Montana has been a stalwart IBMP partner. The partnership has not always been easy, but Montana has committed to communicating and working with its partners, including NPS, because it believes that cooperative management is best for both the interested parties and for the bison. While it is an IBMP partner, Montana is also a sovereign which can, and does, exercise its police powers appropriately. Montana has an obligation to manage *all* wildlife within its borders for the public interest. Montana consistently weighs and balances these powers and responsibilities when taking management actions.

It is as both a sovereign and an IBMP partner that Montana respectfully requests that NPS withdraw the alternatives and consult with the State as to what management actions may be palatable, and which are unacceptable.

2) Montana seeks clarity as to how NPS’ new NEPA efforts will fit with the 2000 NEPA efforts.

The Notice is ambiguous as to whether the proposed National Environmental Policy Act (NEPA) analysis is intended to *replace* or *supplement* the original NEPA analysis and Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) conducted in 2000.

The Notice states that “the plan will focus on actions the [NPS] may take to manage bison within [YNP] and consolidate various actions and environmental compliance analyses conducted over the past two decades into a contemporary plan.” *Id.* at 4,563. Montana asks that NPS specifically identify *all* “actions and environmental compliance analyses” it anticipates consolidating into its “contemporary plan.” Additionally, Montana asks NPS whether it plans to incorporate portions of the original IBMP FEIS adopted in 2000 (*over* two decades ago) and, if so, which portions. Similarly, as to each section of the original FEIS adopted or not adopted in the “contemporary plan,” Montana would ask NPS to issue an explanation for its inclusion or exclusion.

These distinctions are important for many reasons and guide how Montana will comment. Montana reserves the right to make appropriate comment once NPS provides the requested clarification and information.

3) Montana’s tolerance for bison dispersal in areas around YNP is limited.

As rationale for this NEPA effort, NPS states:

Action is needed because new information obtained since the approval of the [IBMP] in 2000 indicates some of the premises regarding disease transmission in the initial plan were incorrect or changed over time. In addition, there are fewer cattle near the park and Federal

and State disease regulators have taken steps to lessen the economic impacts of brucellosis outbreaks in cattle.

Id. However, NPS provides no detail about what this “new information” might be. Without that information, it remains difficult for Montana to give meaningful comment on the alternatives presented.

Over the last two decades, the IBMP partners have collaboratively managed bison that disperse out of the park. Part of that management has included expanded tolerance zones in Montana. While Montana has agreed to expanded tolerance over the years, it has done so with the understanding that NPS would continue to be a responsive IBMP partner, collaborative in population and disease management. Several components of the proposed alternatives indicate that NPS is reevaluating this role. If NPS fails to fulfill its obligations as a cooperative partner, Montana may also be forced to reconsider its role.

Similarly, it is important for NPS to understand that Montana’s tolerance is limited, and any assumption of continued tolerance zone expansion presumes too much. Here too, without more detail, Montana’s ability to provide helpful comment is limited. That said, Montana offers some of the following statements in the hope that they can act as guidance to NPS in this effort:

- Brucellosis transmission from bison to cattle is possible. While bison may not be the primary disease vector in livestock transmissions surrounding YNP, that circumstance is the product of successful IBMP implementation.
- Bison present a real and demonstrable concern to private property and public safety in Montana.
- While Montana has taken steps to mitigate the impacts of brucellosis on its livestock industry, the livestock industry is unwilling to assume the burden of additional mitigation associated with “expanded” tolerance.
- Montana will not participate in actions that increase the bison population or tolerance zones outside YNP to the detriment of other wildlife. This includes, but is not limited to, actions that would displace other wildlife, such as elk. Doing so threatens to create ripple effects throughout areas surrounding YNP, 1) increasing wildlife/landowner conflicts and 2) increasing both the potential and geographic occurrence of brucellosis transmission from wildlife to cattle.

4) “Food-Limited Carrying Capacity” is not an acceptable foundation for bison population targets.

NPS’ Notice bases Alternative 3 on a “Food-Limited Carrying Capacity” that allegedly supports a park population range from “5,500 to 8,000 or more bison after calving.” *Id.* at 4,654 (emphasis added). Past practice, as well as present observation of YNP conditions, definitively demonstrate that this population target is more than what YNP can actually sustain, and would therefore be an erroneous basis for management action.

Bison population targets must be based on more than forage estimated carrying capacity. If forage availability were the only factor in managing a healthy bison population within YNP,

bison would be content to remain within YNP. Indeed, there would be no need for an IBMP because there would be no outward dispersals into Montana.

Bison disperse out of YNP and into Montana for a number of reasons, not the least of which being weather, predation, forage efficiency, forage competition with other grazing ungulates, and learned dispersal behavior. This has been demonstrated by the fact that bison disperse out of YNP, even when the population is *below* the “food-limited carrying capacity” NPS asserts.

The YNP landscape is in poor condition. Even at existing populations, areas frequented by bison, particularly riparian areas and open meadows such as those in the Lamar Valley, are overgrazed. A number of scientific journals have reached this same conclusion, and I have witnessed the damage myself on several tours of the park.

The population targets set forth in Alternatives 2 and 3 are absurd and unsupported by both science and lay observation. Even the populations set forth in Alternative 1 have proven too much for YNP to handle. Montana encourages NPS to re-evaluate these population targets in favor of a more reasoned and conservative approach, both for the sake of existing co-management and the rangeland health of YNP.

5) A true “No Action” alternative would reflect the “Modified Preferred Alternative” set forth in the 2000 FEIS and ROD.

To label Alternative 1 as the “No Action” alternative is to confuse adaptive management actions with the original goals set forth in the 2000 FEIS and ROD. A true “No Action” alternative would reflect the Modified Preferred Alternative identified in the 2000 FEIS and ROD, and not the present adaptive management activities implemented by IBMP partners to meet FEIS/ROD goals.

One of several goals identified by the 2000 Modified Preferred Alternative was to manage bison for an overall population of 3,000. IBMP partners have implemented actions over the years in relation to population, resulting in a population that, according to the Notice, generally ranges between 3,500 and 5,000. However, the failure to successfully meet the 3,000 goal does not mean that the goal should be changed or, worse, revised to embrace failed management.

Over the years, adaptive management actions related to population and removal have been highly controversial. The contentious nature of this issue underscores the need for additional transparency in NPS’ renewed NEPA efforts. I would ask that NPS set forth a true “No Action” alternative that resembles the Modified Preferred Alternative set forth in the 2000 FEIS and ROD. To keep the proposed “No Action” alternative is to start this process from a place that was never memorialized in the original FEIS or ROD.

6) NPS should examine and commit to specific population management or disease suppression measures.

Montana views a successful interagency relationship as one in which all partners are committed to the principles of the IBMP. Those principles include:

- the maintenance of a wild, free-ranging bison population;

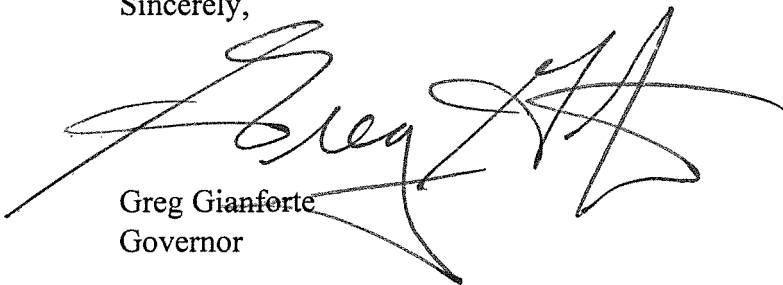
- reduction of the risk of brucellosis transmission from bison to cattle;
- management of bison leaving YNP and entering Montana; and
- maintenance of Montana's brucellosis-free status for domestic livestock.

Montana remains concerned that the alternatives proposed in the Notice advance the first principle to the detriment of all other principles. To maintain the balance of principles, Montana asks NPS to evaluate the following actions in its upcoming EIS:

- Implementation of an in-park disease suppression regime. Vaccination of bison was a management action identified in the 2000 Modified Preferred Alternative, but was never implemented. Montana would ask that NPS commit to vaccination or a similar disease suppression regime as part of its contemporary plan.
- In-park bison relocation and habitat management to achieve population distribution. Bison in YNP congregate in two primary herds: the northern herd and the central herd. As a means of achieving broader in-park dispersal and reducing concentrated populations, Montana would ask that NPS explore in-park relocation and habitat management actions that increase available habitat and achieve broader distribution.
- Consistent removal objectives that are a function of population. Each year, as part of developing the Winter Operations Plan, IBMP partners identify bison removal targets. Montana would ask that NPS explore set removal targets that are a function of bison population. This would provide for consistent annual removals while ensuring herd integrity.

In closing, I would again request that NPS withdraw its Notice and engage in consultation with the State of Montana to identify mutually acceptable management alternatives for NPS' NEPA analysis. It is clear in reviewing the proposed alternatives that success depends on Montana's cooperation. As such, we would welcome the opportunity to discuss the appropriate scope of these alternatives to prevent any wasted NEPA effort.

Sincerely,



Greg Gianforte
Governor

Enclosures

Cc: United States Animal and Plant Health Inspection Service, P. Ryan Clarke
United States Forest Service, Mary Erickson
InterTribal Buffalo Council, Ervin Carlson
Nez Perce Tribe, Quincy Ellenwood
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February 28, 2022

National Park Service Director Charles Sams III
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Cam Sholly
Superintendent of Yellowstone National Park
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Yellowstone National Park, WY 82190

RE: Notice of Intent (NOI) To Prepare an Environmental Impact Statement for a Bison Management Plan for Yellowstone National Park, Idaho, Montana, Wyoming

Director Sams and Superintendent Sholly:

The Montana Department of Livestock (MDOL) welcomes the opportunity to comment on the National Park Service's (NPS) Notice of Intent to Prepare an Environmental impact Statement (EIS) for a Bison Management Plan for Yellowstone National Park (YNP) (NOI) to guide management of the bison population in YNP. The MDOL is the agency responsible for the management of animal health diseases and their potential to cause harm to Montana's economy or be transmitted to humans. The MDOL has worked for many years as a collaborative partner with YNP, alongside other state, federal, and tribal partners in the management of bison through the Interagency Bison Management Plan (IBMP).

Under Montana law, the MDOL has an obligation to manage the movement and dispersal of bison emanating from YNP that are exposed to *Brucella abortus*. These activities have included monitoring, hazing, and occasionally lethally removing bison that have dispersed beyond accepted tolerance areas within Montana's borders and pose a risk of transmitting *B. abortus* to domestic livestock. These efforts are necessary as the Greater Yellowstone Ecosystem is the last area in North America with a reservoir of *B. abortus* in wildlife.

The State of Montana spends millions of dollars each year in the management of this disease, conducting surveillance that ensures early disease detection. These efforts are undertaken to ensure the confidence of trading partners in other states, and across the world. As such, the MDOL and State of Montana have a great stake in the management of bison emanating from YNP. In light of this responsibility, the MDOL offers the following comments and concerns with the current scoping and alternatives proposed in the NOI.

1) MDOL asks that NPS reconsider its alternatives and engage in consultation with the State to identify mutually acceptable alternatives for analysis.

The alternatives identified in the NOI assume a level of state cooperation that NPS has not secured. It would also appear that state cooperation is crucial to the success of these alternatives. That said, MDOL was not consulted in the formulation of these alternatives and, as set forth below, has a number of significant concerns.

For over two decades, Montana has collaboratively partnered with NPS in the management of bison in the Greater Yellowstone Area. Montana has undertaken this effort because it felt that cooperative co-management was best for both sovereigns and for the bison at issue. Given this history of dedicated co-management, and the cost the State of Montana would incur as a result of NPS' proposed alternatives, MDOL would ask that NPS take these alternatives "back to the drawing board" and engage in consultation with Montana as to the actions it would like to propose.

2) The alternatives presented do not advance research of *B. abortus* or apply existing research to suppress disease prevalence in bison.

One of the primary concerns with bison dispersing beyond the jurisdictional boundaries of YNP or being shipped to other areas of Montana is the high prevalence of *B. abortus* infected animals within the herd. Population seroprevalence rates are estimated to be as high as 60 percent. It is not clear in the alternatives what efforts, if any, will be made to address or reduce disease prevalence.

Larger populations of bison within YNP lead to greater out-movement and greater exploration of territory beyond what has been deemed tolerable. This bison behavior has been a primary source of conflict over time, mainly due to the prevalence of *B. abortus* within the herd. Because of the threat of infection to domestic livestock and other wildlife species present in the area, there must be 1) an evaluation of actions inside the park to research the spread of *B. abortus* within the herd and to other wildlife species, and 2) an identification of, and commitment to, actions that would prevent that spread. In-park vaccination would be an example of an action that the MDOL would find acceptable. The fact that elk also carry *B. abortus* should not preclude this analysis or commitment.

3) The proposed alternatives should examine in-park management actions.

In each of the alternatives, the major actions presented to keep the population within the target described rely on capture at the boundary (administrative harvest, Bison Conservation Transfer Program) or hunting and hazing across the boundary within the State of Montana. However, it is appropriate to also analyze new actions that could be taken to control population numbers and herd dispersal *within* the boundaries of YNP. Analysis of enhanced in-park management actions would greatly mitigate the potential for disease transmission and property damage that could happen outside of YNP. Such in-park actions might include, but are not limited to, prescribed burns for enhanced forage opportunity and in-park relocations to broaden population distribution. These types of actions would greatly reduce the need for controversial hazing or administrative removals conducted outside YNP.

4) The proposed alternatives do not advance a predictable target for population removals as they fail to account for the seasonal and environmental barriers that are part of managing bison.

Over time, MDOL has seen a failure to manage populations in YNP in accordance with range bound targets, and a failure to successfully remove bison to achieve agreed-upon population objectives. In some years, there is little dispersal beyond the YNP boundary because of weather and other environmental conditions. In other years, out-movements have presented the opportunity to achieve the population goals, but managers have limited operations due to agreed-upon removal caps. This lack of consistency has resulted in a failure to remove the minimum number required to sustain or reduce the population as needed, and necessitates a new and more consistent approach.

NPS should analyze and commit every effort to meeting a removal target that is a function of population. As stated by NPS at previous IBMP meetings, it is possible to identify an acceptable percentage of removal that

can be achieved while maintaining a genetically viable and sustainable population within YNP. MDOL would ask that the proposed alternatives analyze this approach.

5) Alternative 1 is presented as a “no action” alternative even though it describes goals not adopted as the Modified Preferred Alternative in the 2000 EIS or Record of Decision (ROD) establishing the IBMP.

Alternative 1 accurately describes the current management situation that has been derived through adaptive management over time. However, to label present conditions as the “no action” alternative assumes a universal acceptance of those management activities and population numbers as a fundamental goal of the IBMP, which is not accurate. While Alternative 1 may be the least objectionable of the three alternatives under consideration in this NOI, a true “no action” alternative would reflect the Modified Preferred Alternative in the previous 2000 EIS and ROD that created the IBMP, *which identified an overall population limit of 3,000 bison.*

Adaptive management changes implemented since 2000 have been applied *within* the framework of the IBMP in an attempt to meet IBMP objectives, *not* to alter the IBMP’s basic management direction or goals. That being said, adaptive management actions related to population and removal have been extremely contentious as between IBMP partners, in part, because they have failed to meet population goals set forth in the ROD. NPS cannot use this new NEPA process to label the status quo as the “no action” alternative. To do so disingenuously “moves the mile marker” to a starting place never before memorialized under the previous EIS and ROD and which lacks unanimous support.

6) Based on the shared experience of managing bison populations, the proposed alternatives contain objectives that are not realistic and which disproportionately shift the management burden to the State of Montana.

Based on recruitment rates for bison within YNP, the population counts proposed in these alternatives are both tactically and socially difficult to maintain. While Alternative 1 may represent the current management environment, Montana experiences significant challenges under this regime. Hunting outside YNP has proven an inconsistent and frequently unwieldy tool to accomplish the required removals and to deter population growth, even at existing population levels. The population targets within Alternative 3 suggest that an annual removal of over 1000 bison per year would be needed, which is a target that cannot consistently be met with the management actions proposed.

Additionally, the suggestion that Montana should accept bison distribution across a greater landscape to facilitate hunting removals presumes tolerance and risk levels Montana has not, and may not, choose to assume. Alternatives 2 and 3 would result in a greater likelihood of threat to livestock, public safety, and private property, requiring the State of Montana and property owners to haze bison back toward areas of tolerance and YNP. There likely would be greater need to lethally remove bison that travel beyond tolerance zones and are in direct conflict with private property and livestock. The proposed alternatives, including Alternative 1, are not realistic to maintain and unilaterally assign additional bison management responsibilities and burdens to the State of Montana.

The basic principles of the IBMP are: the maintenance of a wild, free-ranging bison population; the reduction of the risk of brucellosis transmission from bison to cattle; management of bison leaving YNP and entering Montana; and maintenance of Montana’s brucellosis-free status for domestic livestock. However, the proposed alternatives fail to meet all principles and articulate a desire to return to a pre-IBMP management scenario, in

which Montana is forced to assume the administrative and financial consequences of YNP management decisions, or lack thereof. MDOL asks that NPS withdraw its proposed alternatives and consults with Montana as to the tolerance and actions Montana is willing to embrace with regard to bison management.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Honeycutt", with a stylized, flowing script.

Michael S. Honeycutt
Executive Officer
Montana Department of Livestock



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February 28, 2022

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Re: Notice of Intent to Prepare an Environmental Impact Statement for a Bison Management Plan for Yellowstone National Park, Idaho, Montana, and Wyoming

Director Sams and Superintendent Sholly:

The Montana Department of Fish, Wildlife and Parks (MFWP) welcomes the opportunity to provide comment on the National Park Service's (NPS) recently announced effort to prepare an Environmental Impact Statement (EIS) for a Yellowstone National Park bison management plan.

Since its adoption, MFWP has been an active partner in the Interagency Bison Management Plan (IBMP) and takes seriously the task of balancing its stated principles, specifically: the maintenance of a wild, free-ranging bison population; the reduction of the risk of brucellosis transmission from bison to cattle; the management of bison leaving YNP and entering Montana; and maintenance of Montana's brucellosis-free status for domestic livestock. MFWP has chosen to collaboratively co-manage bison because it was the most effective management structure for achieving the foregoing principles. In 2021, MFWP staff spent over 1000 hours actively managing bison, responding to complaints, patrolling for hunting-related issues, and dealing with sick or injured bison in an effort to meet its obligations as a responsive IBMP partner.

MFWP is concerned by the proposed alternatives identified by NPS, as the success of those proposed alternatives hinges upon Montana's cooperation. To date, NPS has neither sought nor secured that cooperation or commitment from Montana. For example, Alternative 3 states that "[s]ubstantially larger harvests would have to occur outside the park for this alternative to be effective, which would require public and tribal hunters to allow bison to distribute and hunt them across a larger landscape." *Notice of Intent*, 87 Fed. Reg. 4,653, 4,654 (Jan. 28, 2022). Clearly, this alternative is contingent upon activity beyond NPS' jurisdiction and assumes that 1) Montana would consent to a "larger landscape" and 2)

Montana has the capacity and resources to manage a “larger” public harvest. These presumptions are bold, to say the least.

MFWP would respectfully request that NPS reconsider the alternatives it has proposed and consult with Montana to identify mutually acceptable management actions appropriate for analysis. It would be a waste of resources for YNP to engage in lengthy and in-depth NEPA analysis only to find that Montana is unwilling to participate in a proposed action.

Additionally, MFWP would highlight the following concerns.

1. “Food-Limited Carrying Capacity” is an incomplete measure by which to manage bison.

MFWP does not see value in a target bison population defined by forage-limited carrying capacity. Carrying capacity, as a concept, is clearest and most applicable when dealing with domestic livestock where forage amounts, stocking rates, and distribution of animals can be rigidly and rapidly controlled and adjusted in response to changing environmental circumstances. Carrying capacity in diverse and expansive habitats, like YNP, is far more difficult than domestic pastures to measure, and bison inside YNP are far more difficult than domestic livestock to manage. The potential for large numbers of bison to suddenly encounter significantly reduced forage availability due to factors such as poor growing conditions, fire, or heavy snow is a reality in the Yellowstone area. These limiting factors are more than theoretical, as demonstrated by dispersals of bison into Montana during the winter months. Under such circumstances, bison searching for food could dramatically overcome the management capacity represented by hazing and hunting as both relate to managed distribution of bison outside YNP.

2. MFWP would ask NPS to incorporate in-park management activities into the proposed alternatives.

MFWP asks that YNP consider and evaluate in-park habitat enhancements and management actions that might help shape the current distribution of bison and transfer of disease. Habitat manipulations, for example, might diversify and expand bison presence inside the park. Prescribed fire has demonstrated positive impacts on both forage availability and diversity. With or without habitat manipulation, in-park translocation of bison should also be evaluated as to the same potential benefits for bison and their management. These tools, for multiple species, have their place in successful wildlife management outside the park and may prove beneficial for YNP management objectives.

3. Increased bison presence outside YNP, whether in terms of population or spatial occupancy, may impact distribution of other wildlife species and increase brucellosis transmission risks.

Any option that directly or indirectly results in more bison outside YNP should recognize and assess the increased disease risk to domestic livestock and other wildlife species, as well as the impacts to displacing other wildlife species.

Increased bison presence may increase the chance of exposure and brucellosis transmission between bison and cattle. In areas where elk are already well represented, increased bison presence will likely increase elk brucellosis exposure and infection, as well as influence the distribution of those elk, potentially pushing them more into areas occupied by livestock. This, in turn, will likely increase the exposure and transmission rate of disease between elk and cattle.

Aside from increased disease transmission, increased bison presence outside YNP will likely create increased wildlife/livestock conflict. Bison directly compete for forage presently utilized by livestock and other wildlife. Displacing either could, either immediately or over time, result in a significant increase in general conflict between wildlife and agriculture. Over the years, MFWP has worked diligently with agricultural interests around YNP to mitigate existing conflicts. MFWP opposes any action that exacerbates these conflicts and threatens to undermine these efforts.

Finally, MFWP would caution NPS against any assumption that disease management tools utilized for elk could be broadly implemented in other species or throughout the area around YNP. MFWP's disease management tools are identified and implemented in a site-specific manner, taking a number of variables into consideration. Any elk-related management tools and the application of the same should not prematurely be assigned the same level of effectiveness relative to bison or more concentrated herds of elk.

MFWP requests that NPS reconsider the alternatives it has advanced and consult with Montana as to mutually acceptable actions. From the express wording of the alternatives, it is clear that NPS relies on Montana's cooperation to ensure the success of these proposed actions, and it would be productive for the sovereigns to enter into dialogue as to what might or might not be acceptable. MFWP believes that continued collaboration rather than unilateral action is essential to the successful management of bison dispersing from YNP.

Sincerely,



Hank Worsech
Director

C: Rachel Meredith, Montana Office of the Governor