

EXHIBIT 9  
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HB 214

House Bill 214  
February 1, 2011  
Presented by Bob Lane  
House Fish and Game Committee

Mr. Chairman and committee members, I am Bob Lane, Chief Legal Counsel of Montana Department of Fish, Wildlife & Parks (FWP). For a number of reasons I will explain, I am here in opposition to House Bill 214.

HB214 appears to treat all bison, domestic or wild, as livestock. Treating wildlife as livestock is not how wildlife, including wild bison, should be managed and certainly is in conflict with Montana's rich tradition of wildlife conservation.

FWP's major issue with this bill is Section 8 (starting on line 26 on page 6) that directs the Department of Livestock (DoL) to capture, quarantine, and test for brucellosis any estray bison not owned by a person. FWP interprets this to mean wild bison under management authority of FWP, or co-management authority by FWP and DoL. To be clear, FWP does not "own" wild bison or any other wildlife. FWP manages wildlife in trust for the people of Montana. No other entity is allowed to "own" wild bison. Presently the only wild bison in Montana are those that come out of Yellowstone National Park (YNP) at least seasonally. Under this bill, those would be considered estray bison.

HB 214 further directs the DoL to deliver any estray animal not owned by a person that is not found to be brucellosis-free (i.e., tests positive for brucellosis) to a DoL-approved slaughterhouse. This constitutes a test and slaughter program. Since up to 50% of YNP bison are seropositive for brucellosis, this means that probably half of the YNP bison that exit YNP into Montana will immediately (DoL fiscal note says within 3 days) be sent to slaughter. During a severe winter when a lot of bison migrate out of the Park, this could constitute a significant portion of the YNP herd (currently estimated to be at 3,900).

HB214 directs the DoL to vaccinate any estray bison not owned by a person that are brucellosis-free and then sell them, transfer them to qualified tribal entities, or take them through public hunting. What this bill does is ensure there will be no wild bison in Montana, including those that move out of YNP. Therefore, any wild bison would be considered an estray, and would be rounded-up and removed or taken by public hunters. FWP would be reluctant to offer such public "hunts", because FWP does not view the intent or outcome of this type of population removal as being consistent with the intention of fair-chase hunting. It is simply a population extermination process. It is also our understanding that recently vaccinated animals are not supposed to be eaten, at least until 21 days after being vaccinated.

FWP understands that the State Veterinarian would not be able to certify that any of the captured bison are brucellosis-free. As a result, DoL must capture any bison in Montana outside of YNP and then slaughter them. In contrast, the protocol of the ongoing initial feasibility study to determine how and if captured YNP bison can be certified as brucellosis-free takes a carefully monitored multi-year program.

Between the culling of seropositive bison and removal of seronegative bison, it probably wouldn't take long before most of the YNP bison are gone. This threat would likely

immediately qualify wild bison for listing under the Endangered Species Act, especially since YNP bison represent the largest and most secure source of genetically pure wild bison.

Treating all wild bison as estrays also will affect Tribal treaty hunting rights. Currently there are four tribes that have asserted treaty rights to hunt wild bison in the Greater Yellowstone area. If there are no longer any wild bison, then there would be no treaty rights to exercise.

Additionally, wild bison are classified as big game under Title 87 (87-2-101 MCA) and would still retain that classification – adding further confusion over jurisdiction of wild bison and making wild bison subject to livestock estray laws. This is a very dangerous precedent to set.

Finally, HB214 is one of six bison-related bills introduced so far this year. The scope and intent of these bills highlight the complexity of the issue surrounding bison, and underscore the need for extensive public dialog surrounding the issue of bison conservation. Individual bills that stymie that dialog ultimately do a disservice to the public and their interest in a high profile and important conservation issue. We request that you table this bill, and let the broad dialog surrounding the short and long-term role of bison in Montana happen through public planning and participation processes.

Based on the hearing last week on SB207, which has some similarities to this bill, the primary concern was stray bison resulting from individuals or organizations allowing those to go free, and DoL not having authority to address them. One thing that would help with this concern would be the proposed requirements in Section 4 (line 13, page 5), along with requirements for notification of change of ownership so that the DoL knows who has how many bison where. This would make laws pertaining to domestic bison consistent with those that apply to cows. FWP would support amending this bill to keep Section 4, eliminate Section 8, clarify Section 5 to mean buffalo or bison owned by a person, and eliminating most of the changes proposed in Sections 9-18.