EXHIBIT 5
DATE 3/7/13
HB 2

MEMORANDUM OF UNDERSTANDING
BETWEEN
MONTANA FISH, WILDLIFE & PARKS
AND
THE ASSINIBOINE & SIOUX TRIBES OF THE FORT PECK RESERVATION
FOR
QUARANTINE FEASIBILITY STUDY BISON

This Memorandum of Understanding (MOU) is entered into between Montana Fish, Wildlife & Parks (MFWP) and the Assiniboine & Sioux Tribes of the Fort Peck Reservation (FPT) on this 16th day of March, 2012.

WHEREAS, bison is a keystone species that has important biological, cultural and recreational values, and has significant historical, socio-economic, cultural and religious value to the Assiniboine and Sioux Tribes and its members.

WHEREAS, a Quarantine Feasibility Study (QFS) was developed by several cooperating agencies for the purpose of developing quarantine procedures, using the best available science and adaptive research strategies, to certify that individuals or groups of Yellowstone National Park (YNP) bison are free from brucellosis, including latent infections of brucellosis, and

WHEREAS, MFWP desires to proceed to Phase IV of the QFS under the criteria and conditions developed in the 2005 QFS EA for continued monitoring within contained facilities with the desire that the QFS bison and/or their offspring could be available for conservation purposes at the completion of phase IV, and

WHEREAS, QFS bison have been tested numerous times for brucellosis, and have repeatedly tested negative for brucellosis during Phase III of the QFS, and

WHEREAS, 64 QFS bison have finished Phase III of the QFS and require a location where they and any offspring born over the 5 year monitoring period can continue to be tested for brucellosis, and

WHEREAS, after a Montana Environmental Policy Act (MEPA) decision-making process, the MFWP Commission has approved the Assiniboine & Sioux Tribe's lands as an Interim Translocation Site for maintaining and managing up to 64 QFS bison pursuant to the protocol of the QFS with the longer-term objective of restoring and conserving the genetics of the Yellowstone Bison.

THEREFORE LET IT BE RESOLVED, that MFWP and FPT enter into this Memorandum of Understanding to effect the transfer of up to 64 bison from the QFS facility to the Fort Peck Indian Reservation, for management of these bison and their progeny. For the term of this MOU, MFWP and FPT agree that transferred bison will continue to be considered QFS bison. Upon completion of the term of this MOU, MFWP and FPT agree that such bison will no longer be considered QFS bison, but will be under the sole jurisdiction of FPT.

THEREFORE BE IT FURTHER RESOLVED, that for the purposes of future bison conservation on other tribal or public lands, up to twenty-five percent of the progeny of QFS bison will be made available to MFWP upon request.

A) Term

The parties enter into this agreement for a term of up to five (5) years, commencing at the date of the final signature below and ending March 1, 2017. The parties reserve the right to negotiate past the termination date of this MOU for the continuance of any terms.

B) FPT Responsibilities

1) The FPT will transport, or cause to be transferred, up to 64 QFS bison from the quarantine facilities near Gardiner, Montana directly to the Fort Peck Indian Reservation to be released within the boundaries of the Reservation. Any risk or loss with respect to transport of the bison from Gardiner to the Fort Peck Indian Reservation will remain with MFWP.

2) The FPT will release the QFS bison within the exterior boundaries of the FPT reservation into a pasture interior to those boundaries, designated as the surveillance pasture, which must be of adequate carrying capacity, and will consist of at least a seven foot, woven wire fence. FPT will be solely responsible for the care and management of QFS bison and any subsequent offspring. FPT will keep QFS bison within the surveillance pasture and separate from other FPT bison or livestock as required by the QFS Phase IV conditions. In order to prevent any potential disease transmission or genetic introgression, QFS bison must not commingle with other FPT bison or livestock at any time or under any circumstances, nor may QFS bison handling facilities be used for handling other non-QFS bison or livestock during the term of this MOU.

3) The FPT will coordinate with MFWP to design and implement an individual identification system for QFS bison prior to them being moved from the quarantine facility. FPT will keep records sufficient for MFWP to identify original QFS bison, their offspring, deaths and any future YNP/QFS additions. The FPT will make records available to MFWP within 10 business days upon request.

4) FPT will continue to disease test QFS bison and their offspring over the term of this MOU as per QFS protocol. MFWP will be allowed to observe all elements of testing upon request. The required testing will NOT occur during the calving season (April through June) of each year in order to avoid the potential for commingling of QFS bison with FPT bison or livestock.

5) FPT will allow for genetic testing of all QFS bison and progeny if such testing becomes necessary or desirable during the term of this MOU. Additionally, FPT will cooperate with MFWP, as is deemed necessary through the best available science, to regularly exchange like bison in order to maintain genetic diversity and prevent inbreeding of QFS bison.

6) If, for any reason, QFS bison escape from the surveillance pasture and/or the exterior Reservation boundaries, FPT has the sole responsibility to return escaped QFS bison to the surveillance pasture as early as practicable, but no more than within 72 hours of FPT's knowledge of such escape. The intent is to address both the potential for disease transmission to QFS bison through commingling and the potential for damage caused by escaped QFS bison to persons or property outside the exterior reservation boundary.

a) Escape from Surveillance Pasture April through June but still within Reservation boundaries: If QFS bison escape during the April through June calving season and are not returned to the surveillance pasture within 72 hours and the QFS bison are found within Reservation boundaries, the FPT upon MFWP's request will take lethal removal, quarantine, or testing actions as FPT and MFWP deem appropriate, for those QFS bison that have commingled or are suspected to have commingled with other bison or livestock on the Reservation.
b) Escape from Exterior Reservation Boundary: If escaped QFS bison are not returned to the surveillance pasture within 72 hours, and they are found outside the exterior Reservation boundaries, MFWP reserves the right to lethally remove escaped QFS bison through any means necessary and allowed by law. QFS bison that move off the Reservation will be considered wildlife by MFWP, subject to applicable wildlife statutes and rules under Title 87 MCA. Tools for the removal of QFS bison off of the reservation include hazing or herding, trapping and transport, lethal removal by MFWP or FPT officials, and the issuance of kill permits to landowners affected by QFS bison that are off of the reservation. Trapping and transport is the preferred alternative.
c) If, during the term of this MOU, QFS bison escape more than three times from the exterior Reservation boundaries due to the negligence of FPT, and such escapes result in substantial damage to persons or property and FPT fails to compensate for actual and reasonable damages within a reasonable time, FPT, upon MFWP request, will return original QFS bison and up to 25% of their progeny to MFWP.

7) FPT will be solely responsible for any damage to persons or property caused by the QFS bison should they escape. FPT will keep liability insurance to cover any claims during the 5 year monitoring period. FPT will disclose all claims to MFWP that have been filed on liability insurance. FPT will indemnify and hold MFWP harmless for any and all claims for damages to persons or property occurring during the term of this MOU and the placement of QFS bison on FPT lands caused by QFS bison escapes from the surveillance pasture.

8) FPT will ensure that adequate resources are available to maintain the surveillance pasture and care of QFS bison during the term of this MOU. To keep QFS bison from exceeding carrying capacity, either supplemental feeding or culling, or both, will be employed.

9) FPT will prepare status reports on all births, escapes, ingress, egress, deaths and other significant incidents related to QFS bison and provide such reports to MFWP on a quarterly basis.

10) Upon request, FPT will transfer to MFWP up to 25% of the progeny of QFS bison for the aforementioned conservation purposes.

11) FPT agrees that the Fort Peck Tribes/State of Montana Technical Committee is the appropriate committee to address any MOU issues.

12) FPT will provide reasonable access to MFWP for inspection of QFS bison or FPT facilities at any time and for any reason, given 24 hours' notice from MFWP.

C) MFWP Responsibilities

1) MFWP will coordinate with the FPT to facilitate the transfer of up to 64 QFS bison from Gardiner, Montana to the Fort Peck Indian Reservation as provided above.

2) MFWP will coordinate with FPT to design and implement an individual identification system for QFS bison prior to them being moved from the quarantine facility.

3) MFWP reserves the right to remove QFS bison that are found outside the Reservation boundaries and are within the jurisdiction of the State of Montana as provided in Section B.6. above.

4) MFWP reserves the right to reasonably access and inspect QFS bison or FPT facilities at any time and for any reason, given 24 hours' notice from MFWP.

5) MFWP reserves the right to request and receive up to 25% of the progeny of QFS bison for the aforementioned conservation purposes. MFWP will notify the FPT of intent to recover such bison 180 days prior to any required transfer.

6) MFWP will cooperate with FPT, as is deemed necessary through the best available science, to regularly exchange like bison in order to maintain genetic diversity and prevent inbreeding of QFS bison.

7) MFWP will assist FPT in securing resources for feed. MFWP will work with federal and private partners to provide adequate funding for fencing of the surveillance pasture, handling facilities, and transportation to the Reservation described above.

8) Upon request, MFWP will, through the Montana Department of Livestock, provide portable bison handling and corral facilities for testing once per year.

9) MFWP agrees that the Fort Peck Tribes/State of Montana Technical Committee is the appropriate committee to address any MOU issues.

D) Assurance for Brucellosis Status

1) Pursuant to QFS protocol, APHIS will be asked to assist FPT in their annual testing of the QFS bison and their offspring to ensure that the bison continue to be brucellosis-free during the term of this MOU.

2) Pursuant to QFS protocol, APHIS will be asked to assist FPT with removal of any afterbirth from bison that abort during pregnancy, to determine the status of brucellosis antibodies.

3) In the event a QFS bison tests sero-positive for brucellosis, and so long as the FPT has complied with the terms of this MOU, the FPT will be responsible for addressing any outbreak in accordance with the Tribes Foreign Animal Disease Emergency Preparedness and Response Plan. In the event a QFS bison tests sero-positive for brucellosis due to commingling because of a material violation of a term of this MOU, MFWP reserves the right to address the outbreak in accordance with APHIS and Montana Department of Livestock authorities, which may include lethal removal of all QFS bison. MFWP will make best efforts, to the extent allowed by law, to contain any

such response solely to QFS bison and their offspring, and not to other FPT bison or livestock.

E) Indemnification

FPT agrees to protect, defend, and save MFWP and its elected and appointed officials, agents, and employees, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, against MFWP and their elected and appointed officials, agents, and employees on account of bodily or personal injuries, death, or damage to property arising out of the negligent acts or omissions of FPT.

MFWP agrees to protect, defend, and save FPT and its elected and appointed officials, agents, and employees, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, against FPT and its elected and appointed officials, agents, and employees on account of bodily or personal injuries, death, or damage to property arising out of the negligent acts or omissions of MFWP

F) Liaison and Service of Notices

Unless otherwise designated by the FPT Chairman and the Director of MFWP, the liaisons for day-to-day implementation of this MOU shall be the FPT Fish and Wildlife Director and the MFWP Region 6 Bureau Chief. All written notices, reports and other information required to be exchanged between the parties must be directed to these persons, with copies to the FPT Chairman and the Director of MFWP.

Execution

The parties through their authorized agents have executed this MOU on the dates set out below.

F/b _____ Date: 3/16/2012

Joe Maurier, Director
Montana Fish, Wildlife and Parks
PO Box 200701
Helena, MT 59620

_____ Date: 3/16/2012

Floyd G. Azure, Chairman
Fort Peck Tribal Executive Board
PO Box 1027
Poplar, MT 59255

ADDENDUM

To the **Memorandum of Understanding between Montana Fish, Wildlife, and Parks and the Assiniboine and Sioux Tribes of the Fort Peck Reservation for Quarantine Feasibility Study Bison**, dated March 16, 2012.

Montana Fish, Wildlife & Parks (MFWP) and the Assiniboine & Sioux Tribes of the Fort Peck Reservation (FPT), as parties of the aforementioned MOU, recognize and agree that of the 64 QFS bison being transferred to FPT, half of the animals, or up to 32 bison, are to be further transferred to the Gros Ventre & Assiniboine Tribes of the Fort Belknap Reservation (FBT).

This transfer will take place as soon as is practical, following MFWP's indication that adequate facilities are in place on the Fort Belknap Reservation to receive QFS bison.

MFWP will assist FPT in securing resources for feeding FBT-bound bison during this interim period.

FPT will provide care for FBT-bound bison according to the terms of the aforementioned MOU, and will assist MFWP in selecting for transfer half of the animals, or up to 32 bison, that are balanced for age and gender between the two groups.

f/b Joe Maurier, Director
Montana Fish, Wildlife and Parks
PO Box 200701
Helena, MT 59620

Date: 3/16/2012

Floyd G. Azure, Chairman
Fort Peck Tribal Executive Board
PO Box 1027
Poplar, MT 59255

Date: 3/16/2012