

House Bill 396
March 19, 2013
Presented by Ken McDonald
Senate Fish and Game Committee

Mr. Chairman and committee members, I am Ken McDonald, Wildlife Division Administrator for the Wildlife Montana Department of Fish, Wildlife and Parks (FWP). I am here on behalf of the Director in respectful opposition to House Bill 396.

FWP appreciates the concern about bison translocation, but opposes this bill as it erodes authority for management of Montana's wildlife at a statewide level by giving individual counties "veto" power over wildlife management decisions. Our agency is governed by a citizen commission, which provides significant public oversight. Additionally, we must adhere to various laws like MEPA and NEPA that require a full public airing of any decision, and specific to bison, with Senate Bill 212 that passed last session. This legislation seeks to tip this balance for the first time by granting to Counties new wildlife authority without any requirements on how the review in Section 1 is to be conducted or criteria on which their decision must be based. Because wildlife don't recognize county boundaries, wildlife management decisions are best made at the state level to allow for consideration of cross jurisdiction and broad scale habitat issues.

With that said, FWP always welcomes input from county governments on wildlife management issues, including bison. Specific to bison, current statute requires a management plan before bison translocation could occur. Per 87-1-216(5), the management plan must include

- (a) measures to comply with any applicable animal health protocol required under Title 81, under subsection (2)(b), or by the state veterinarian;
- (b) any animal identification and tracking protocol required by the department of livestock to identify the origin and track the movement of wild buffalo or bison for the purposes of subsections (2)(b) and (5)(c);
- (c) animal containment measures that ensure that any animal transplanted or released on private or public land will be contained in designated areas. Containment measures must include but are not limited to:
 - (i) any fencing required;
 - (ii) contingency plans to expeditiously relocate wild buffalo or bison that enter private or public property where the presence of the animals is not authorized by the private or public owner;
 - (iii) contingency plans to expeditiously fund and construct more effective containment measures in the event of an escape; and
 - (iv) contingency plans to eliminate or decrease the size of designated areas, including the expeditious relocation of wild buffalo or bison if the department is unable to effectively manage or contain the wild buffalo or bison.
- (d) a reasonable means of protecting public safety and emergency measures to be implemented if public safety may be threatened;
- (e) a reasonable maximum carrying capacity for any proposed designated area using sound management principles, including but not limited to forage-based carrying capacity, and methods for not exceeding that carrying capacity; and

- (f) identification of long-term, stable funding sources that would be dedicated to implementing the provisions of the management plan for each designated area.

It also requires: "When developing a management plan in accordance with subsection (5), the department shall provide the opportunity for public comment and hold a public hearing in the affected county or counties. Prior to making a decision to release or transplant wild buffalo or bison onto private or public land in Montana, the department shall respond to all public comment received and publish a full record of the proceedings at any public hearing."

In addition to the above, any management plan will undergo MEPA process, as well as require Commission approval. Both of these processes also provide the opportunity for public input and comment, including from county commissions.

FWP's intent regarding bison, as explained in the attached letter from Director Hagener to Senator Brenden and Representative Welborn, is to complete a statewide look at whether there are places for wild bison on the Montana landscape. This will be done through development of a programmatic EIS. We completed a significant public scoping process last summer, and are completing analysis of those comments now to include further research on the issues and concerns expressed during the scoping. The next logical step is to convene local working groups to further explore issues, options, and opportunities in any area that might be considered for bison translocation. At this point, there have been no decisions made during this EIS process.

Finally, this bill introduces uncertainty about whether a county commission must approve the translocation of bison onto a reservation that is within the boundaries of a particular county.

FWP believes there is substantial public process for counties to weigh in on decisions such as bison translocation, and recommends a DO NOT PASS vote on House Bill 396.



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Senator John Brenden
Senate Fish and Game Committee Chairman
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Representative Jeffrey Welborn
House Fish, Wildlife & Parks Committee Chairman
Capitol Station
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Dear Senator Brenden and Representative Welborn:

Thank you for your recent letter inquiring about Montana Fish, Wildlife and Parks' (FWP) direction for bison management in Montana. As you know, this is an issue that generates significant public interest from a diverse set of parties in the state. This interest and passion has yielded no small amount of speculation, rumor, and misinformation about bison management. I appreciate the opportunity to clear up some of the confusion.

These issues are functionally divided into three separate categories – those associated with Yellowstone Park in the Greater Yellowstone area (GYA), those associated on non-tribal lands outside of the GYA, and those associated with tribal lands. I offer the following responses to the issues you have raised, as they pertain to each of these three situations.

Greater Yellowstone Area

The bison that migrate into Montana from Yellowstone National Park (YNP) are managed under the Interagency Bison Management Plan (IBMP). The IBMP was the product of ten years of planning among five state and federal agencies that ultimately resulted in a court-ordered mediation, where the final management agreement was struck. It is designed as an adaptive plan that adjusts to changing conditions over time. Under adaptive management, the IBMP partners are considering year-round tolerance for bison in a limited area on the west side of YNP. This area consists of the Hebgen Basin, the Cabin Creek Recreation and Wildlife Management Unit, the Monument Mountain Unit of the Lee Metcalf Wilderness Area, and the uppermost reaches of the Gallatin River. The northern extent of this area includes the Taylor Fork drainage, but it does not include areas northward into Big Sky or areas further north into the Gallatin Canyon. This proposal would also allow for year-round tolerance for bull bison only in the Gardiner basin. We offered a scoping notice for this proposal on July 23, 2012 and held public meetings in Gardiner and West Yellowstone. We hope to have a draft environmental assessment completed this spring.

Outside Yellowstone

On nontribal lands outside of the GYA, the department currently has no plans to move bison anywhere in the state of Montana. More specifically, the department has no plans to move bison to any of our

Wildlife Management Areas, including the Spotted Dog, Marias River, and Milk River properties. Furthermore, in the event bison movement is contemplated in the future, the department will fully comply with the provisions of SB 212, passed in 2011 and now codified within § 87-1-216, MCA. FWP has initiated a planning process to explore the potential for bison to be moved to appropriate areas and managed as wildlife in Montana. While not required under SB 212, FWP believes it is an important step to first take a statewide look at bison management in Montana. The planning process began with eight public scoping meetings during 2012, and generated more than 20,000 comments, which are currently being summarized and analyzed. If the decision is made to proceed with more site-specific analysis, FWP would convene a local working group in any area under consideration, in order to assist FWP with analyzing issues and making recommendations. For any eventual decision to establish bison in an area of Montana outside the GYE (and outside of tribal lands), a management plan would be developed in compliance with SB 212 (MCA 87-1-216), MEPA, and other statutory requirements. Again, please be assured that there are currently no such plans, nor are there any pre-determined outcomes to the planning process.

Tribal Lands

Native American tribes on reservations in Montana and outside of Montana have expressed strong desire for Yellowstone bison to restore cultural and subsistence values. Any bison that might be moved to a tribal reservation would be certified disease-free by the state veterinarian and APHIS, and expectations for their management will be articulated in an MOU with the Tribe(s) similar to the MOU agreed upon with the Fort Peck Tribes. If bison were to go to an out-of-state reservation, they would have to meet the requirements of the receiving state. The FWP Commission would also have to approve any such translocation. Presently no plans are in place for moving bison to any tribal lands, other than the potential for moving one-half of the bison that were moved to Fort Peck to Fort Belknap. As you note in your letter, that is presently not possible due to a court injunction.

FWP has an obligation to manage all wildlife for the greatest benefit of all Montanans. Because of the substantial interest surrounding bison, we believe it is important to undertake an open and honest planning effort to determine the course of bison management. In answer to your question about what legislators can do to help facilitate forward movement, your assistance in dispelling rumors and misinformation regarding bison management would be very helpful. Collectively, we must work with all interests to address bison conservation, in order to ensure that we properly consider where, if anywhere, we can find acceptable places for wild bison.

Sincerely,



M. Jeff Hagener
Director