Montana Fish, Wildlife & Parks

1400 South 19th Ave
Bozeman, MT 59718

October 6, 2008

To: Governor's Office, Mike Volesky, State Capitol, Room 204, PO Box 200801, Helena, MT 59620-0801
Environmental Quality Council, State Capitol, Room 106, PO Box 201704, Helena, MT 59620-1704
Dept. of Environmental Quality, Metcalf Building, PO Box 200901, Helena, MT 59620-0901
Dept. of Natural Resources & Conservation, PO Box 201601, Helena, MT 59620-1601
Montana Fish, Wildlife & Parks:

Director's Office	Parks Division	Lands Section	FWP Commissioners
Fisheries Division	Legal Unit	Wildlife Division	Design & Construction

MT Historical Society, State Historic Preservation Office, PO Box 201202, Helena, MT 59620-1202
MT State Parks Association, PO Box 699, Billings, MT 59103
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James Jensen, Montana Environmental Information Center, PO Box 1184, Helena, MT 59624
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George Ochenski, PO Box 689, Helena, MT 59624
Jerry DiMarco, PO Box 1571, Bozeman, MT 59771
Montana Wildlife Federation, PO Box 1175, Helena, MT 59624
Wayne Hurst, PO Box 728, Libby, MT 59923

Ladies and Gentlemen:

The enclosed Environmental Assessment (EA) has been prepared for the FWP proposal to implement its part of the Step 2 of the IBMP by entering into a 30-year grazing restriction and bison access agreement with the Royal Teton Ranch (RTR) and contributing $300,000 to the costs of the agreement.

The draft EA is available for review from FWP at the address provided above or viewed on FWP's Internet website: http://www.fwp.mt.gov/publicnotices.

Montana Fish, Wildlife & Parks invites you to comment on the attached proposal. Public comment will be accepted until 5:00 p.m. on October 31, 2008. Comments should be sent to the following:

Royal Teton Ranch Grazing Rights Purchase Agreement
Montana Fish, Wildlife & Parks
PO Box 200701
Helena, MT 59620-0701

Or email comments to: RTRgrazing@mt.gov

Sincerely,

Patrick Flowers
Region Three Supervisor
Attachment

Montana Fish, Wildlife & Parks

DRAFT ENVIRONMENTAL ASSESSMENT

ROYAL TETON RANCH, GARDINER MONTANA

GRAZING RESTRICTION AND BISON ACCESS AGREEMENT

October 2008

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DRAFT ENVIRONMENTAL ASSESSMENT (EA)

Royal Teton Ranch Grazing Restriction and Bison Access Agreement

1. INTRODUCTION AND BACKGROUND

1.1 Introduction

Bison are essential to Yellowstone National Park because they contribute to the biological, ecological, cultural, and aesthetic purposes of the Park. However, Yellowstone National Park is not a self-contained ecosystem for bison, and periodic movements of bison out of the Park and into Montana occurs regularly.

Unfortunately, some Yellowstone bison are infected with a bacteria, *Brucella abortus* , which may be transmitted to cattle and cause them to abort. Acknowledging this potential threat to livestock operators in Montana, Montana Fish, Wildlife and Parks (FWP), Montana Department of Livestock (DoL), U.S.D.A. Forest Service (Gallatin National Forest), U.S.D.I. National Park Service (Yellowstone National Park), and U.S.D.A. Animal Plant Health Inspection Service (APHIS) developed an environmental impact statement (EIS) in 1990 for the implementation of a bison management strategy. After a period of additional negotiations between the state and federal partners and nearly two decades of cooperative planning, the final EIS was published and the Interagency Bison Management Plan (IBMP) was completed in 2002. A full copy of the IBMP is available at http://liv.mt.gov/AH/diseases/brucellosis/gya.asp, and the current operating procedures for the plan are included as *Appendix A* for IBMP.

The Secretaries for the Departments of Agriculture and the Interior, along with the Governor of Montana, directed the agencies to implement the IBMP because it best fulfilled the purpose and need for action as identified very early in the EIS planning process. That purpose and need as described in the final EIS is to "maintain a wild, free-ranging population of bison and address the risk of brucellosis transmission to protect the economic interests and viability of the livestock industry in the state of Montana."

The IBMP employs an adaptive management approach that allows the agencies to gain experience and knowledge before proceeding to the next management step, particularly with regard to managing bison on winter range outside Yellowstone National Park (YNP). The IBMP uses many tools to minimize or eliminate the risk of transmission of brucellosis but primarily relies on the spatial and temporal separation of *Brucella abortus*-infected or -exposed bison from cattle on neighboring private and public lands.

The IBMP's adaptive management strategy of spatial and temporal separation works to eliminate bison and cattle from commingling in the same area or adjacent areas at the same time and maintaining a specific period between the time bison are moved from an area and when cattle are moved onto those lands.

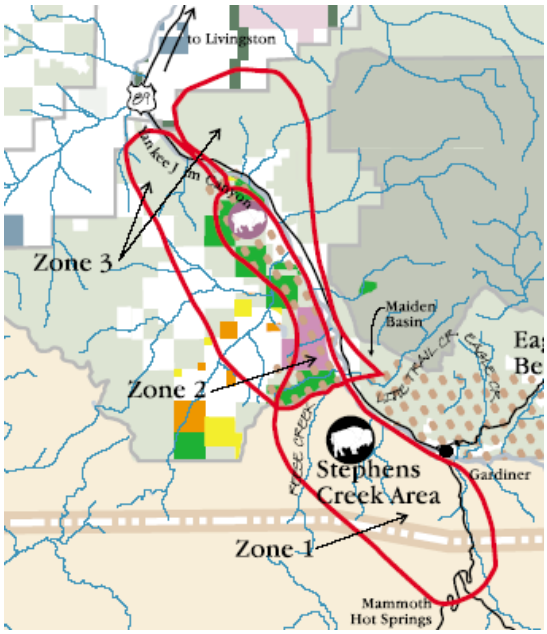
The plan defined three areas bison migrate into Montana beyond YNP. Those three areas are the western (West Yellowstone), northern/east side (Eagle Creek / Bear Creek), and northern/west side (Reese Creek to Yankee Jim Canyon). From there, the areas were further broken down into zones to define the lands where bison were and were not tolerated because of concerns about potential brucellosis transmission. Zone 1 is defined as within YNP bison winter habitat where bison are tolerated but would be subject to hazing in the spring when bison from Zone 2 are returned to the Park to maintain the 45-day separation period between bison and cattle. Zone 2 is Forest Service winter habitat where bison are managed for bison tolerance limits set forth in the IBMP Step 2. Lastly, Zone 3 is a zero tolerance area because of the likelihood cattle will be using those areas for grazing (see below for the Bison Zone Map).

Depending upon the emigration patterns of the bison, three different steps were described in the IBMP that were to be taken to manage their presence in those areas to reduce the possibility of disease transfer and ensure public safety. See Sections 1.2 and 3.2 for further information on the actions defined in each step.

The plan allowed different responses for bison movement out of Yellowstone depending upon the overall bison population size, numbers leaving YNP, location of bison exiting the YNP, and the time of year in which bison moved into Montana. The stepped bison management approach includes hazing, capture and hold, capture and slaughter, vaccinate and release, and lethal control in the field.

1.2 Purpose and Need

In the IBMP, the Royal Teton Ranch (RTR) was identified as one of the areas where bison presence could be tolerated after the cattle were removed from that area. The ranch's properties lie within the Reese Creek to Yankee Jim Canyon management area north of YNP's boundary and west of the Yellowstone River.



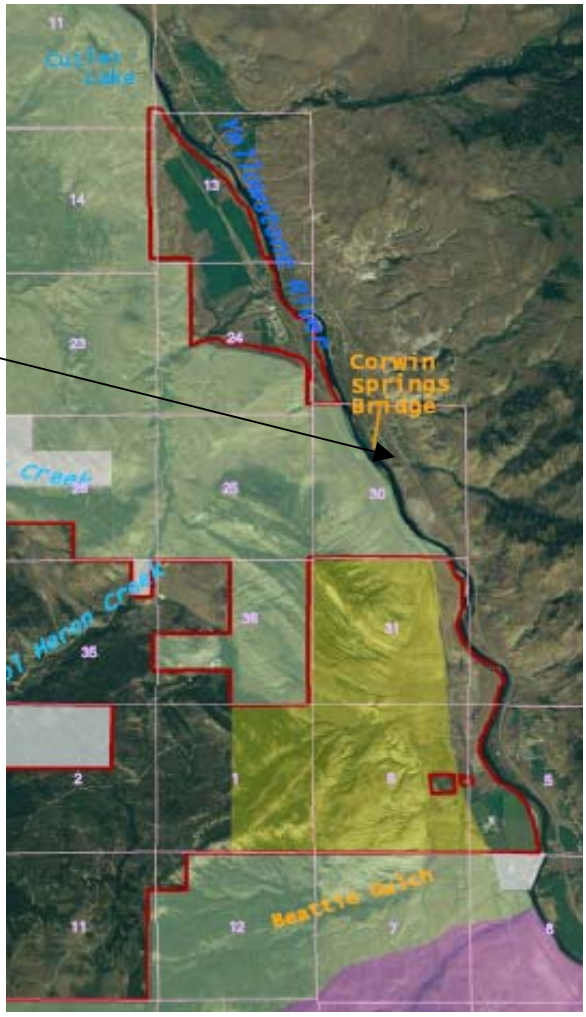
Bison Tolerance Zone Map from the 2000 EIS.

Royal Teton Ranch is within Zone 2

In the plan's adaptive approach, three steps were defined in order to decrease the probability of brucellosis transmission from bison to cattle and allow a limited number of bison to roam north into Montana during winter months. During Step 1 in the IBMP, cattle would still be using ranch property and bison movement would be restricted to areas south of Reese Creek. Bison moving past Reese Creek would be hazed back into YNP per Step 1 procedures. If the hazing was unsuccessful, NPS would capture all bison attempting to leave the Park to be tested, processed, and monitored per the IBMP.

Step 2 would be implemented when cattle no longer graze on the RTR. In this phase of the IBMP, a limited number of bison that have been tested and found seronegative for brucellosis would be allowed north beyond Reese Creek through RTR to Forest Service lands near Yankee Jim Canyon. This corridor will provide bison with a safe avenue to reach winter habitat on public lands, thusly providing bison more natural free-ranging movement opportunities and allowing the IBMP partner agencies to meet their brucellosis management goals.

In Step 2 of the IBMP, initially only 25 seronegative bison would be allowed to roam in designated "bison use areas" north of the Park on RTR lands. As per the IBMP and the RTR Bison Management Plan, if the initial implementation of Step 2 is successful, the number of bison allowed to move through the RTR could be increased to 100 animals. The following maps show the area where the proposed project will take place.



Legend:

Outlined in Red – RTR boundaries

Yellow –
Forest Service conservation easement on RTR property

Light Green – Forest Service property

Pink – Yellowstone National Park

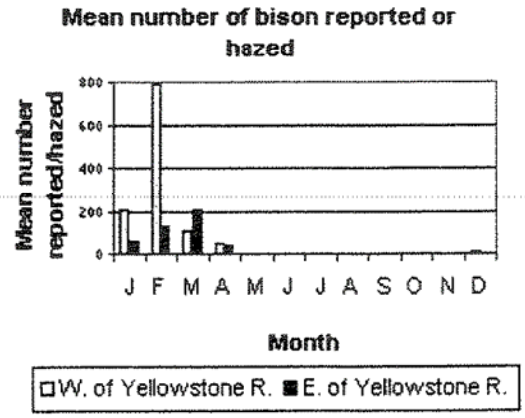
White – Other Private Property

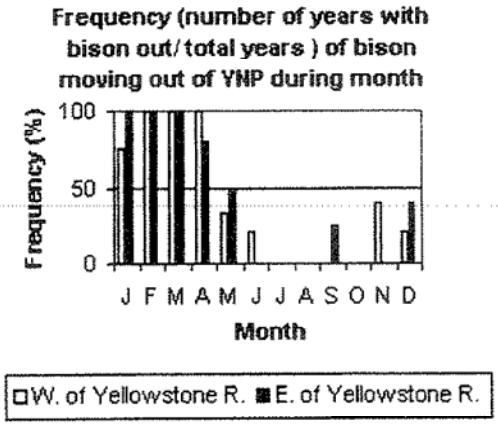
This environmental analysis focuses on Montana Fish, Wildlife and Park's (FWP) part of the implementation of Step 2 of the Interagency Bison Management Plan (IBMP) which would allow for the controlled movement of a limited number of bison through Royal Teton Ranch (RTR) properties to graze on Forest Service lands north of Yellowstone National Park (YNP).

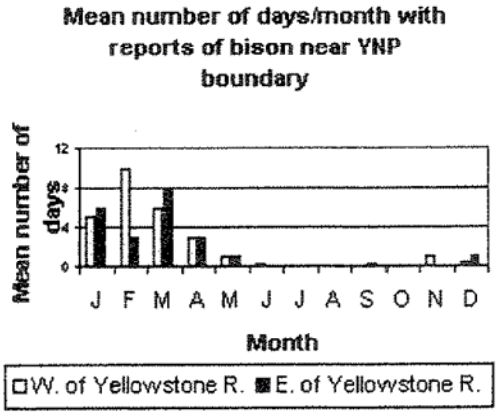
Need

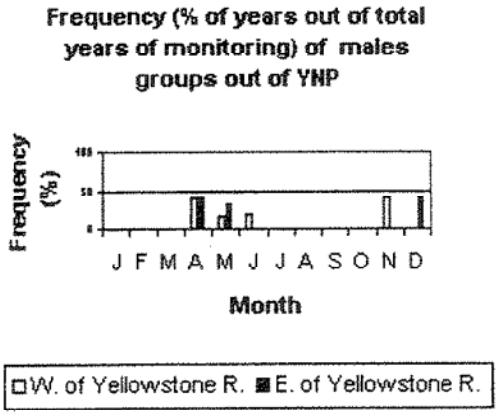
Over the past 35 years, the number of bison emigrating out of YNP has increased. It appears that in winters when more than 3,000 bison are counted during aerial surveys inYNP, emigration of bison out of the park is more likely to occur.

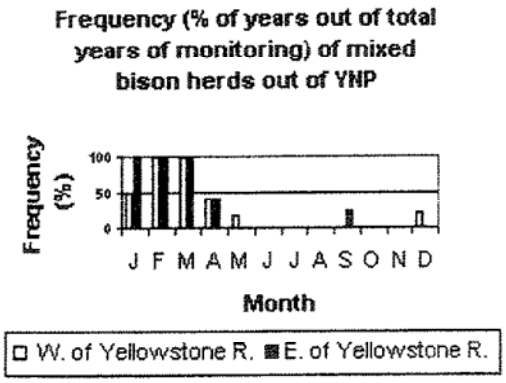
The following charts are a summary of YNP reports on bison in the northern boundary area 1999-2004 (FWP, Final Bison Hunting Environmental Assessment 2004). Data is divided into West of Yellowstone River, which is associated with RTR lands, and East of the Yellowstone River, which is associated with the Eagle Creek and Bear Creek drainages.











More recent statistics on bison movements out of YNP's northern boundary reflect an increase in the number of bison emigrating during the winter. The cumulative number of bison hazed within the northern zone peaked in 2006 at 4,994 and decreased to 3,375 in 2008 (Personal communication with NPS, 2008). These numbers reflect the cumulative number of bison hazed throughout the winter, but some individual bison were hazed numerous times. The number of actual hazing events by IBMP partners during those years was highest in 2008 with 127 occurrences.

The number of bison leaving YNP in winter has been hypothesized to be driven by snow depth, snow crusting, forage (quality, quantity, and/or accessibility), bison population size, human trail grooming, herd tradition, or some combination of the factors. Statistical analyses of these variables showed not only were all the independent variables significantly related to bison emigration, but so were all interactions among variables. This suggests that bison emigration is controlled by a complex relationship between weather and population size that has probably changed over time, but the exact structure of the relationship is unknown (FWP, Final Bison Hunting Environmental Assessment 2004).

Since 2000, the IBMP has been the primary management agreement implemented by the partnering agencies (FWP, DoL, FS, NPS, and APHIS). As previously noted, the plan defined successive steps to allow seronegative bison to emigrate into designated bison use areas outside YNP and define what management actions would be used by the agencies to decrease the opportunity for the spread of brucellosis within existing bison populations and to domestic cattle on public and private lands. The plan reflects a commitment on the part of federal and state agencies to limit the killing of bison outside YNP by allowing some bison to use some winter range on public lands in close proximity to the Park.

1.3 Authority

Statutes

Montana statute section 87-1-201, Montana Code Annotated (MCA), authorizes the Montana Fish, Wildlife and Parks Commission to set the policies for the protection, preservation, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state 87-1-201 MCA. Within the policies established by the Commission, FWP is responsible for supervising the management and public use of all the wildlife, fish, game, furbearing animals, and game and nongame birds of the state.

Additionally, 87-1-216 MCA identifies wild buffalo or bison as a species in need of management because of the possible transmission of brucellosis from Yellowstone bison to domestic livestock and the possibility of damage to private property when bison leave Yellowstone National Park. This statute requires FWP to cooperate with DoL in managing publicly owned wild bison and coordinate with DoL on the implementation of bison management methods.

2. DESCRIPTION OF ALTERNATIVES

2.1 Alternative A: Preferred Alternative, Enter into the RTR Agreement

FWP proposes to implement its part of the Step 2 of the IBMP by 1) entering into a 30-year grazing restriction and bison access agreement with the Royal Teton Ranch (RTR), 2) contributing $300,000 to the costs of the agreement, and 3) constructing and maintaining fences, cattle guards, and related structures as necessary to manage bison moving through the RTR. Fence construction and maintenance would be contracted to a second party by FWP. A preliminary design of the fence is included as *Appendix B.*

The entire estimated cost of the RTR grazing agreement is $1.8765 million up front followed by 19 years of payments of $76,500. $300,000 of this will be paid by FWP, and the rest will be funded by federal (NPS) and non-government partners involved with the IBMP.

Obtaining this agreement is one of the wildlife management goals identified in the Bison Management Plan EIS to establish a bison-tolerant zone north of the YNP boundary where bison could emigrate in the winter for forage. The goals of the proposed action are:

- To ensure tested and non-tested bison are appropriately segregated
- To move seronegative bison through the RTR to more suitable grazing lands on public lands north of the ranch, and
- To prevent injury or damage to persons and property.

Highlights of Responsibilities as Defined by the Agreement

RTR will not graze domestic cattle, domestic sheep, or domestic goats on the ranch during the term of the agreement. Additionally, the ranch will not be able to build any new structures in the corridor that might obstruct bison movement without FWP permission. If a bison hunting season is established on adjacent public lands, the ranch will allow limited permitted access to their property for licensed bison hunters to retrieve animals downed on nearby public land.

FWP will be allowed to access the bison corridor in order to construct and maintain fencing and related structures to manage the bison and for monitoring activities per the IBMP operating procedures. FWP is not granted access to any of the ranch's buildings. If bison carcasses or birthing materials are found on the ranch, FWP and IBMP partners will promptly and properly dispose of the remains in a location off the RTR.

The Agreement recognizes that the IMBP is subject to adaptive changes. In fact, the IBMP cooperating agencies are currently in the process of considering such adaptations. Any adaptive change agreed to by the partners that affect the grazing right must also be subject to the approval of the RTR. Their approval will not be unreasonably withheld as per the agreement.

Anticipated Timeline of Events

The finalization and signing of the Royal Teton Ranch (RTR) Agreement will closely follow the completion of the environmental review process. Depending upon contractor schedule, weather conditions, and approval from the FWP Commission and Montana Land Board, the proposed fence may be installed and in working order by the winter of 2008-09 to allow for the initial group of seronegative bison to migrate north and graze on public lands. If those events are delayed and winter conditions that preclude construction occur prior to the final approval of the agreement, the fencing portion of the proposed project may be postponed until the fall of 2009.

Option for the Operation of Fence

Fencing wires may be dropped after the designated number of bison have moved through the ranch's property to public land. This option will largely be dependent on bison behavior. If the bison are continually moving between the Ranch property and public land, then the fences will have to remain up. If they remain on public property, then the fences could be dropped. As with the normal operations of the fence, this additional component would be managed by a hired contactor and supervised by FWP staff to ensure the fence is in working order when required.

2.2 Alternative B: No Action

FWP would not sign the grazing agreement with the RTR, no financial resources would be dedicated, and Step 1 of the IBMP would continue to be implemented in the RTR areas thus preventing bison from migrating onto and through the ranch to reach winter range on adjacent public land.

2.3 Decision to be Made

The decision to be made is whether FWP should approve and enter into the proposed Grazing Restriction and Bison Access Agreement. This EA discloses the analysis and environmental consequences associated with implementing the proposed action or its alternative. This EA will provide information and analysis to determine whether an action results in a significant effect and would, therefore, require the completion of an environmental impact statement (EIS). The responsible official for this proposal is the FWP Director. If an EIS is not required, a Decision Notice will document the decision and the rationale for it.

3. AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

3.1 Overview

Section 3 describes the physical, biological, and human resources of the environment that may be affected by the alternatives presented in the previous section and the environmental effects that the alternatives may have on those resources. Affected environment and environmental consequences have been combined into one chapter to give the reader a more concise and connected depiction of what resources exist in the project area that are directly associated with the proposed action.

Considerable research and analysis on bison distribution and movements, management of the spread of brucellosis, methods to manage emigrating bison, economic impacts to the cattle industry, and potential affects on other resources were completed for the Final Bison Management Plan EIS. This EA will reference findings from that document where appropriate but will not reproduce the EIS's complete discussions and analyses on those issues. Please refer to http://liv.mt.gov/AH/diseases/brucellosis/gya.asp for a copy of the entire EIS.

3.2 Issues Identified Through Previous Bison-Related Environmental Assessments and Public Scoping

3.2.1 Cattle and Brucellosis

Affected environment:
As of Spring 2008, all cattle that once grazed on the RTR property were voluntarily removed. They can be restored on the landscape by the RTR unless the proposed buyout occurs. Some area ranchers use the Cinnabar Basin (west of the RTR) and areas east of the Yellowstone River for grazing pastures for cattle in the spring and summer seasons.

Prior to May 2007 when the first Montana cow tested positive for brucellosis, the state's cattle herds had been free from brucellosis for nearly twenty-one years. A second infected cow was identified in June 2008 which caused the state to lose its U.S. Department of Agriculture's brucellosis-free designation. The second infected cow was found in the Paradise Valley north of where the IBMP was in effect. At this point, bison are not the suspected source of the infection in either case.

As noted in previous sections, the development of the IBMP and its' implementation defined how FWP, DoL, FS, NPS, and APHIS would manage bison movement out of YNP and what steps would be taken to decrease the probability of the spread of brucellosis to cattle in the areas surrounding the park.

The EIS and FWP's Bison Hunt EA examined the economic repercussions to the cattle industry if brucellosis is not aggressively controlled. Movement of bison carrying *Brucella* into Montana may place local livestock operations in jeopardy of infection. Testing for brucellosis and vaccinating susceptible animals was estimated (in 2000 dollars) to cost individual operators adjacent to YNP from $2,500 to $5,000 per year (National Park Service 2000). On a larger scope, if brucellosis were introduced to livestock in Montana and not controlled via testing, slaughter, and vaccination, ranchers would likely lose additional income from abortions (a high percentage of animals infected lose the first calf after infection), decreased weight gains (calves that do survive may weight 100 pounds or less at sale than non-infected calves), and delays in calf production (infected cows are likely to lose at least one year of calf production). The presence of brucellosis also leads to long-term increased costs for culling herds. Brucellosis tests have to be administered repeatedly once brucellosis is identified in a herd, and infected cows frequently have reduced productivity even if they do not lose additional calves.

Preferred Alternative, Predicted Consequences:
The 2000 Final Interagency Bison Management Plan Environmental Impact Statement (EIS), cooperatively prepared by federal and state agencies, contained critical analysis on the potential transmission of brucellosis to Montana cattle, what methods needed to be in place to decrease cattle's exposure to bison, and what long-term bison management actions were required by the agencies.

The EIS identified many methods to address the risk of transmission, but the IBMP primarily relies on enforcement of spatial and temporal separation of potentially infectious bison or their birth products and susceptible cattle. Spatial and temporal separation would be maintained by monitoring both boundary areas daily. As bison move further from the Park, management would become increasingly aggressive. All bison outside the Park in all the zones would be hazed back into the Park in the spring approximately 45 days before cattle return to these same lands. Research performed since the completion of the EIS and included in the 2005 review of the IBMP indicates that as few as 4.7 days would be required to ensure the die-off of any remaining bacteria found in birthing material or aborted fetuses in typical June weather.

- Bison management steps, as defined in the IBMP, require that seronegative bison attempting to leave the Park and not amenable to hazing (when either the population exceeds 3,000 or tolerance levels outside the Park have been met or exceeded) would be captured and held for possible later release in YNP. If the capture and holding facility at Stephens Creek in YNP were full or otherwise unavailable, these bison would be sent to slaughter. If population numbers are low, bison, up to the capacity of the Stephens Creek capture facility, would be held until weather moderates or until spring green-up begins and then released back into the Park.

Under the current IBMP, the bison allowed to move within the RTR bison corridor will be examined, tested, and marked at the Stephens Creek facility by NPS staff to ensure they meet the seronegative requirement before the bison are allowed to travel north to FS grazing areas. The seronegative bison will be marked so they can be distinguished from untested bison that may also enter the bison corridor. Marking will facilitate removing untested bison from the area. In addition, all seronegative female bison allowed to move north will be implanted with a vaginal transmitter to aid in the retrieval of potentially infected birthing material as outlined in the IBMP. As an active partner in the IBMP, FWP does not expect any negative affects to cattle or the transmission of brucellosis to cattle from bison using the RTR corridor due primarily to the absence of cattle in the area. As mentioned previously, the IBMP is subject to adaptive changes which may include some of the mitigation mentioned here. Adaptive change will only be implemented if they do not substantially increase the risk of transmission of brucellosis.

Furthermore as an additional precaution, the RTR Bison Management Plan (Exhibit D to the Agreement) acknowledges the possible need for and construction of another bison containment facility on public lands north of the RTR. This additional capture and holding facility could be considered necessary if seronegative bison that moved through the RTR in winter refuse to be hazed back to the YNP boundary in April or in severe winter conditions, or if non-tested bison move through the corridor and cannot be herded back into the park. FWP expects this confinement structure would be temporary in construction and would be much smaller that the existing bison holding facility at Stephens Creek.

No Action Alternative, Predicted Consequences:
If the No Action Alternative were chosen by FWP, Step 1 of the IBMP would remain in effect and would define the bison management responses taken by the partnering agencies toward emigrating bison. Potentially, the long-term consequences of not implementing Step 2 of the plan will be the possible increased need to employ lethal management measures to emigrating bison when the Stephens Creek capture facility is full; additional costs to partner agencies to manage migrating bison when they move into Zones 2 and 3; and the loss in learning about whether the management strategies outlined in Step 2 would be a practical and efficient approach to manage bison movements while maintaining spatial and temporal separation from cattle. Under the No Action Alternative, there would be no new progress made toward improving the free ranging ability of bison to winter habitat north of YNP.

The RTR would continue their agricultural operations, which now includes no cattle, but they could decide to allow grazing cattle back on the ranch in the future.

3.2.2 Public Safety and Property Damage

Affected environment:
The approximately 2,800 acres that will be affected by the Agreement encompass primarily RTR open space and Forest Service lands with minimal structures. In the northern portion of the corridor, the bison will be able to move through a small, improved area that once served as the ranch's airport. The improvements include a metal building and gravel lot that now serves as a storage area for farming equipment. South of Spring Creek, in the southern portion of the corridor, a relic of the valley's mining past is visible from Yellowstone Trail South Road (county road). A row of brick coke ovens is nestled at the edge of the grasslands at the base of the foothills.

Much of the bison corridor is roadless with the exception of three access roads crossing the corridor west from the county road. Two of those are RTR access roads, and one is an access point to a Northwestern Energy electrical substation.

Barbed wire and smooth wire fencing currently exists along the RTR and county road right-of-way boundary. Also, certain sections of the ranch's previously cultivated field are fenced with barbed wired. There are sections of the fencing that are down or where portions of the fence line are missing.

The Yellowstone Trail Road South is a hard-packed gravel road that provides access to properties on the west side of Yellowstone River. In winter, the road is not routinely plowed. Bison have used portion of this county road in and outside YNP as a convenient travel route. It is hypothesized the use of hard packed or groomed surfaces reduce the bison's energy expenditures when they are moving between foraging areas.

Preferred Alternative, Predicted Consequences:
The proposed path of the bison corridor will maneuver the animals safely past a variety of RTR business and residential buildings as well as two other privately owned homes.

The corridor's path will guide bison north through the ranch and will require the bison to travel across or on the Yellowstone Trail Road South for limited distances. Previous experience indicates the bison often prefer to move along this road.

Both the Bison Management Plan EIS and Bison Hunting EA acknowledged bison could be dangerous to humans as well as cause costly damage to private property. Accounts cited in the EIS noted that the majority (92%) of bison nuisance incidents occur along the western boundary of YNP. Most reported incidences involve bison being a threat to livestock, damaging fences, serving as a nuisance on the road and causing vehicle damage, and representing a threat to personal safety.

In 2005, the IBMP status review was completed (Clark, et al., A Status Review of Adaptive Management Elements, 2000 to 2005. 2005). Findings in that report under the heading of "Protection of Private Property" noted that documentation of private property damage has been limited. Most damage was confined to the West Yellowstone area and included damage to fences, ornamental vegetation and landscaping, and horses and mules are occasionally chased. Bison rubbing on wooden sign posts in backcountry areas and jumping fences to access hay inside horse corrals appears to be the extent of damage to physical resources within the Park.

Based on the historic data presented in the 2005 review of the IBMP, FWP expects the possibility of damage occurring to private property and threats to public safety in the RTR bison corridor area to be low because of the low human population of the area, new "bison-resistant" fencing to be installed along the RTR corridor, signage that will inform the public of the hazards of wild bison, and monitoring of bison movement within the corridor by IBMP partners. Furthermore, since the number of bison in the corridor will be strictly controlled if an incident is observed or reported, the situation could be handled promptly to prevent damage or bodily harm.

As part of the terms of the Agreement, FWP will contract for the construction and maintenance of the electric fence along portions the 7-mile bison corridor. The fence will primarily run parallel to the RTR property line and county road right-of-way. Preliminary design of the fence describes it to be 48" high with 4 high-tensile smooth wires spaced at four intervals supported by wooden fence posts. Bottom wire height will be set at 20". From the bottom, the second and fourth wires will be electrified "hot wires". The fencing was designed, in consultation with bison ranchers and wildlife fencing experts, to be a strong enough deterrent to bison movement but to be easily traversed by other wildlife and easily collapsed when not needed. See *Appendix B* for Preliminary Fence Design Diagram, *Appendix C* for Proposed Fence Location Map, and Section 3.2.3 for addition information of fence usage.

The power required for the hot wires will be provided by small solar panels that store electricity in batteries located periodically along the fence line. Stored electricity will provide enough high-voltage power 24 hours a day to discourage bison from crossing the fence without causing permanent harm to them.

In addition to the new fencing, FWP plans to install eight cattle guards (including one in Yankee Jim Canyon) and six metal gates at various locations throughout the bison corridor, primarily at intersections along the Yellowstone Trail Road where access to RTR residences and ranch buildings is required. The cattle guards are expected to allow normal vehicle traffic through the ranch and deter the bison from moving out of the designated bison corridor. Like the cattle guards, the gates will allow ranch employees access to all areas of the RTR property while discouraging bison movements from the corridor. The gates are expected to facilitate the directed movement of the bison during herding operations.

The proposed bison corridor does designate a short portion of the county road both north and south of the Corwin Springs Bridge. There is no evidence that bison have caused damage to road surfaces within YNP (Personal communication with NPS, August 2008). Based on that knowledge, FWP believes the bison movements along the Yellowstone Trail Road will pose no harm to the road surface.

Bison traveling on the road may leave fecal matter, footprint impressions where and when the road is wet and lastly, bison may create a traffic hazard at night due to their dark color making them difficult to see in darkness. FWP will mitigate traffic hazards by erecting signs recommending drivers use slower speeds in areas where bison will be moving through. Additionally, bison may rest on the road which can pose an inconvenience and potential hazard to local traffic. Such occurrences are expected to be rare since there will be a limited number of bison allowed within the corridor, the distance the bison are allowed to use the road is short, and the bison are expected to migrate to grazing areas and not linger within the corridor.

No Action Alternative, Predicted Consequences:
As with all resources in the bison corridor, if the No Action Alternative were chosen by FWP, Step 1 of the IBMP would remain in effect and would define the bison management responses taken by the partnering agencies toward emigrating bison on to RTR property. The existing fencing would remain vulnerable to bison damage during movements to the north and when they are hazed south toward YNP.

Public safety issues will likely persist because bison are expected to continue to use the county road as a travel route north as they search for forage.

3.2.3 Wildlife

Affected environment:
The RTR and adjacent public lands covered in the RTR Agreement are located within the Gardiner Basin. The Gardiner Basin is a hydrologic unit extending from the south end of Mount Everts in YNP south to Yankee Jim Canyon, a distance of approximately 13 miles. The basin contains portions of the Yellowstone and Gardiner Rivers and the major tributaries of Bear Creek, Eagle Creek, Little Trail Creek, Bassett Creek, Cedar Creek, Slip and Slide Creek on the east side and Stephens Creek, Reese Creek, and Mulherin Creek on the west side. The RTR and adjacent public lands occur within the west side of

the Gardiner Basin west of the Yellowstone River. The mid to low elevation areas of the Gardiner Basin provide important winter range habitat and migration routes for elk, mule deer, antelope, bighorn sheep, and bison. White-tailed deer and moose occur in scattered areas within the basin, but neither is found in significant numbers within the project area. In addition to the ungulate populations, Gardiner Basin contains a full component of predators, scavengers, furbearers, small mammals, game birds, waterfowl, raptors, non-game birds, and amphibians and reptiles occurring in suitable habitats.

Since 1986, the interagency Northern Yellowstone Cooperative Wildlife Working Group (NYCWWG) has collected information on the distribution, population size, recruitment, and movement patterns of elk and other ungulates in the Gardiner Basin. Working group members include the National Park Service, Yellowstone National Park (NPS), U.S. Forest Service, Gallatin National Forest (FS), U.S. Geological Service (USGS), and Montana Fish, Wildlife & Parks (FWP). Working group activities include annual wildlife surveys and various wildlife or wildlife habitat related research projects. Data and research results are reported in various annual survey reports, project reports, and scientific publications.

During the course of the 1999 U.S. Forest Service Royal Teton Ranch Land Conservation Project, FWP provided an evaluation of wildlife habitat and wildlife use on and adjacent to the RTR along with a map of general distribution and high use habitat areas for major big game species (FWP, Wildlife Habitat and Wildlife Use On and Near the Royal Teton Ranch, July 7, 1997). The following species specific sections include portions of the previous evaluation, provide updated population and other information collected in recent years, and focus on the bison corridor and bison use areas covered in the proposed project.

Elk: Resident elk inhabit the upper elevations of Beattie Gulch, Mulherin Creek, and Cinnabar Basin throughout the summer and fall. During this time of year, there is very limited elk use at lower elevations in the bison corridor area. Resident elk are joined by larger numbers of migratory elk from YNP in late fall and early winter. Most of the RTR is located within the northern Yellowstone elk winter range as described in Lemke et al. (1998). Three out of four migratory elk survey units west of the Yellowstone River and north of YNP occur on the RTR. Since 1989, annual winter elk counts in the four units west of the Yellowstone River have ranged from 190-835; typically 300-500 elk are counted in this area each winter. In 2008, 437 elk were counted in this area [FWP, Late-Winter 2007/2008 Northern Yellowstone Elk Survey North of YNP (2/14/08) & Summary of Recent Data, April 15, 2008]. It is difficult to estimate how many are resident elk and how many are migrant elk that summer inside YNP. Based on ground and aerial observations made over several years, either prior to or near the beginning of migration, an estimated 100-150 elk are likely to be resident animals. The first few migrant elk start to arrive in Beattie Gulch in late November with the majority moving north into the area in December and January. Migrant elk remain in this area until late April or early May prior to returning to summer range inside YNP. As part of a larger Upper Yellowstone Elk Movement Study (FWP, Proposal for study of Movements and Distribution of the portion of the Northern Yellowstone Elk Herd that Spends Winter

North of Yellowstone National Park, February 13, 2007) FWP recently collared elk in the Cutler Lake area in 2007 and 2008. Among other things, the results of this study will help determine the migration routes and timing of elk movements for elk marked in this area.

Within the general elk winter range west of the Yellowstone River, high-use elk winter range areas have been identified (FWP, Wildlife Habitat and Wildlife Use On and Near the Royal Teton Ranch, July 7, 1997). All of the high-use elk wintering areas occur in low to mid-elevation foothill habitats west of the designated bison corridor.

Mule deer: Mule deer are found on the RTR year-round. However, during the summer and early fall, deer population densities are relatively low. Much of the RTR is important winter range for a large migratory mule deer population that occupies the Gardiner Basin from late November/December to early May. Based on radio-telemetry research sponsored by the NYCWWG, mule deer move from a large area to include the Absaroka/Beartooth Wilderness, Cooke City, Mill Creek, Big Sky and Yellowstone Lake to winter in Gardiner Basin. Mule deer that winter on the west side of the Yellowstone River seldom cross the waterway. Based on several radio-collared mule deer does, these deer summer at considerable distances to the west and southwest in the Gallatin Mountains, Madison Range, and inside YNP.

Based on spring helicopter surveys since 1986, 370-1,075 mule deer have been counted on the west side of the Yellowstone River on or adjacent to the RTR (FWP, Northern Yellowstone Cooperative Spring Mule Deer Survey, 2008). In 2008, 889 deer were counted in this portion of the Gardiner Basin representing 37% of the total 2,414 mule deer counted in the entire survey area. During the winter, the high mule deer use areas occur in the sagebrush-covered foothills west of the bison corridor (FWP, Wildlife Habitat and Wildlife Use On and Near the Royal Teton Ranch, July 7, 1997). With the beginning of green-up in April, large numbers of mule deer concentrate on the low elevation flats and agricultural fields within and adjacent to the bison corridor.

White-tailed Deer: A small, scattered resident population of white-tailed deer occurs on and adjacent to the RTR. Unlike mule deer, whitetails occupy a relatively small year-round home range and do not exhibit long distance migrations and large seasonal changes in numbers observed in the local mule deer population. Whitetails have been observed in small numbers in Cinnabar Basin, Beattie Gulch, lower Mulherin Creek, and along the Yellowstone River. They are often associated with thicker “habitat edge vegetation” in riparian areas or along field edges. Compared to the hundreds of mule deer counted, FWP typically observes only 10-20 whitetails during spring aerial deer surveys. White-tailed deer are a very minor wildlife component in the Gardiner Basin.

Antelope: Antelope numbers on the RTR have varied with changes in the total antelope population and habitat conditions on the RTR. These antelope are part of a relatively small migratory YNP population that winters in the Park between Mammoth and Reese Creek just south of the RTR. Most antelope use on the RTR occurs from late summer to early winter. From 1988-1993 when total antelope numbers have been as high as 400-

600 animals, about 100-120 antelope occurred seasonally on the RTR (FWP, Wildlife Habitat and Wildlife Use On and Near the Royal Teton Ranch, July 7, 1997). During this period, the RTR had several irrigated agricultural fields adjacent to the Park boundary that attracted considerable antelope use. With the sale of some RTR land to the Forest Service in 1999, irrigation of fields near the Park boundary and in the Cutler Meadow area was eliminated reducing forage production and wildlife use. From 1995-2006, total antelope population counts declined ranging from 169-235 animals. In 2007 and 2008, the total number of antelope counted in and outside of YNP was 291 and 290, respectively (YNP, 2008 Count of Yellowstone Pronghorn, April 21, 2008). At these lower population levels (<300 antelope), relatively few antelope occur on the RTR. However, it should be noted that in some years YNP antelope have migrated north through the RTR and out Yankee Jim Canyon into the Carbella area to establish a small population in Paradise Valley. In 2007 and 2008, early spring antelope counts in the Carbella area were 51 and 71 antelope, respectively. This narrow, low elevation route through the RTR and Yankee Jim Canyon is an important historic antelope migration corridor that should be maintained.

Bighorn Sheep: A small migratory population of bighorn sheep occurs seasonally on and adjacent to the RTR. These bighorn sheep typically arrive in mid to late October and remain until early May in an area from Beattie Gulch to just north of Mulherin Creek (FWP, Wildlife Habitat and Wildlife Use On and Near the Royal Teton Ranch, July 7, 1997). They spend the rest of the year in YNP in the Electric Peak and Sepulcher Mountain areas. In recent years from 2002-2008, aerial survey counts in this area have ranged from 50-71 bighorns (FWP, Northern Yellowstone Cooperative Bighorn Sheep Survey, 2008). Most sheep activity occurs on the steep rocky slopes of Beattie Gulch, Spring Creek, Devil's Slide, Cinnabar Mountain, and the Mulherin Canyon; however, bighorns use the low elevation flats west of the Yellowstone Trail Road at the base of Devil's Slide and Cinnabar Mountain during the breeding season (late October/ November) and during spring green-up (April).

Bison: The occurrence of bison on the RTR depends largely on winter forage conditions, population size, and the management actions/efforts of the IBMP partner agencies. Under natural conditions, in harsh winters large bison migrations occur and several hundred bison may migrate onto the RTR. Sagebrush grassland flats and irrigated hay meadows along the bison movement corridor are heavily used. Bison appear to prefer the narrow band of flat, low elevation habitat along the Yellowstone River. In some previous years with little harassment (winter 1989), bison have moved as far north as Yankee Jim Canyon and beyond; however, larger groups of bison closer to the YNP boundary are more typical. For the last 10-15 years, based on the IBMP guidelines, bison have been herded back inside the Park. Due to brucellosis issues, there has been no tolerance for free-ranging bison outside the Park on the west side of the Gardiner Basin for many years.

Nongame Species: The Gardiner Basin ecosystem provides appropriate habitat for an abundance of nongame wildlife species. The following is a representative list of common

nongame species that are likely to occur in the bison corridor. This is not meant to be a complete list of nongame species that inhabit the area.

Mammals: Coyote, badger, long-tailed weasel, mountain cottontail rabbit, white-tailed jack rabbit, Richardson's ground squirrel, deer mouse, meadow vole, montane vole, long-tailed vole, and little brown myotis.

Birds: Western meadowlark, Brewer's blackbird, American robin, vesper sparrow, mountain bluebird, black-billed magpie, raven, American kestrel, red-tailed hawk, golden eagle, and osprey.

Reptiles: Gopher snake, terrestrial garter snake, common-garter snake, and western rattlesnake.

Threatened Species:

Canada Lynx –

In early 2000, the U.S. Fish & Wildlife Service listed the Canada lynx as "threatened" under the federal Endangered Species Act. The listing covers 16 states including Montana. Although difficult to survey, Montana is believed to support one of the healthiest lynx population in the lower 48 states.

Prey availability, especially snowshoe hares, appears to be a primary limiting factor for lynx in the Northern Rockies. A 2007 Forest Service survey reported the main cause of lynx mortality is starvation. Therefore, lynx habitat conservation measures are currently focused on maintaining adequate quantities of winter snowshoe hare habitat (Tyers, 2008).

Primary forest types that support snowshoe hare are subalpine fir, Engelmann spruce, and lodgepole pine (Ruediger et al. 2000, page 1-3). Secondary foraging habitat includes aspen, willow, and moist, cool, Douglas-fir stands (Ruediger et al. 2000, page 1-3). The key component of snowshoe hare habitat is dense understory vegetation. In winter, lynx forage for hares in vegetation that provides high densities of young conifer stems or branches that protrude above the snow (Ruediger et al. 2000, p. 1-4 and 1-7). Snowshoe hares avoid clear-cuts and very young stands (Ruediger et al. 2000, p. 1-7).

Lynx have been sited in the Gallatin National Forest and search of the Montana Natural Heritage database reported two historic observations of lynx in the Gardiner Basin over the past forty years.

Gray Wolves -

The gray wolf was probably extirpated from Montana by the 1930s. The wolf is currently protected under the federal Endangered Species Act as endangered across northern Montana and experimental, non-essential across southern Montana. The gray wolf is also listed as endangered under Montana's Nongame and Endangered Species Conservation Act. Species recovery efforts through legal protection, natural recolonization in northwest Montana beginning in the late 1970s, and reintroduction into

Idaho and Yellowstone National Park in the mid-1990s resulted in the northern Rockies gray wolf population achieving the numeric recovery criteria in 2002.

Montana's Gray Wolf Conservation and Management Plan outlined how wolves would be conserved and managed after they were delisted under federal law and reclassified to a species in need of management under Montana's laws and regulations. The U.S. Fish and Wildlife Service approved Montana's plan in 2004.

In 2005, an interagency cooperative agreement with the U.S. Fish and Wildlife Service granted authority to FWP to implement as much of Montana's plan as allowed by federal regulations. FWP has been and will continue to be the lead agency for all wolf monitoring, public outreach, research, and resolving wolf-livestock conflicts.

In March 2008, the U.S. Fish and Wildlife Service delisted the gray wolf from the federal Endangered Species Act, but that decision was challenged in federal court. A preliminary injunction was sought to retain federal protections while the litigation moved forward. The federal court reinstated federal protections in July 2008 so that wolves across northern Montana are reclassified back to endangered and wolves across southern Montana are reclassified to experimental, non-essential. Applicable federal regulations apply.

Under Montana law, wolves are still classified as endangered statewide. Wolves will eventually be reclassified as a species in need of management upon federal delisting when FWP has sole jurisdiction for wolf conservation and management.

Wolves were distributed primarily in the NRM region of western Montana east to the Beartooth face near Red Lodge. Montana wolf pack territories average around 200 square miles in size but can be 300 square miles or larger. Montana packs include a combination of public and private lands. The average pack territory in Montana is comprised of about 30% private land. Most Montana packs do not live strictly in back country wilderness areas. Of the 73 packs in Montana, 10 (about 14% of all Montana packs) reside most of the year in remote backcountry or wilderness areas or Glacier National Park. Many others live in public land areas with more public access and habitat fragmentation than wilderness areas or national parks. However, the majority of Montana wolf packs live in areas where mountainous terrain, intermountain valleys, and public/private lands are intermixed.

A minimum of 87 wolves in 14 verified packs existed in the Montana portion of the federal Greater Yellowstone wolf recovery area at the end of 2007 (Sime et al. 2007).

Wolf packs first established in the Paradise Valley between Gardiner and Livingston in the late 1990s, although individual wolves released inside Yellowstone National Park traveled north into Montana in 1995 and 1996, the years wolves were released. There have been resident wolf packs within the Paradise Valley continuously since then. After reintroduction efforts within Yellowstone National Park, wolf packs established inside and along the northern boundary of the Park beginning in 1996, and residential packs

have existed ever since. Over the years, some packs maintained territories that included lands both inside and outside YNP on both the east and west sides of the Yellowstone River (e.g. Chief Joseph in 1996 or Eagle Creek in 2007) (Phillips and Smith 1997, Smith et al. 2007, Sime et al. 2007). Additionally, the wolf population within YNP will always be a source of dispersing wolves which move north and west into the State of Montana and the Paradise Valley. Thus, resident wolf packs or transient, dispersing individual wolves will exist in the Paradise Valley and travel through in the proposed project area.

Sensitive Species:

Wildlife Species	Occurrences and Habitat Comments
Grizzly Bear	See following analysis
Bald Eagle	No known nesting occurs near Corwin Springs. Birds use the area for foraging year-around.
Black-backed Woodpecker	High quality habitat created by recent fires is not present at the site, but it is in the Gardiner Basin.
Flammulated Owl	Habitat includes single-story ponderosa pine or Douglas-fir old growth with open understory.
Harlequin Duck	Nesting habitat includes lakes or small streams.
Peregrine Falcon	Nesting activity has not been documented in or near Corwin Springs although peregrines nest and foraged in the Gardiner Basin.
Townsend's Big-eared Bat	Snags, bridges and buildings provide roosting habitat and wetlands provide feeding habitat.
Wolverine	No denning habitat is associated with the project site. Although it is unlikely, individual animals may travel through the area moving between higher quality habitat.
Trumpeter Swan	Wintering and nesting habitat is not found in the vicinity of Corwin Springs.
Boreal Toad	This species is relatively common on the Forest. Breeding habitat is found in lakes, ponds, slow streams, and ditches.
Northern Leopard Frog	This species is very rare in Western Montana. No reports of occurrence in or near the Corwin Springs area have been made, although it may have been found in the area historically.

(Source: Tyers, USFS Biological Assessment for Terrestrial Wildlife Species: Gardiner Basin Bison Fence Construction. 2008)

Grizzly Bears -

On April 30, 2007, theYellowstone grizzly bear was removed from the list of federally protected species; i.e., it is no longer a Threatened species as described in the Endangered Species Act. However, specific species' conservation requirements must still be adhered to.

Grizzly bears use a wide variety of habitats and have a highly diverse diet including various plants and animals. Riparian areas, snow chutes, meadows, subalpine forests, alpine tundra, boulder fields, mixed shrub fields, seeps, grasslands, timbered side hill parks, and burns are used for feeding and resting. Dense timbered habitats are often used for denning and daytime bed sites. In summary, moist open-land habitats in combination with timbered areas are essential for optimum grizzly bear habitat.

Grizzly bears are now found in small numbers in the lower 48 states. Today, the grizzly mainly occupies high mountain wilderness areas and associated foothills in western and south central Montana. Grizzlies are known to use low-elevation habitats, notably along the east front of the Rocky Mountains and along the base of the Mission Mountains. The best information suggests that the grizzly bear population in the Northern Continental Divide Ecosystem is expanding its range outside of the initial recovery zone and has a population beyond recovery plan levels set by the U.S. Fish and Wildlife Service (Tyers, 2008). Over the past two decades, the Yellowstone grizzly population has expanded their range over 48% (NPS, Yellowstone National Park, Bear Management Update, 2007). In 2007, the National Park Service estimated there were 600 grizzly bears in the Greater Yellowstone Area.

Preferred Alternative, Predicted Consequences:
The proposed action will not result in the deterioration of critical fish and wildlife habitat for the following reasons: 1) removing cattle grazing from the RTR will provide additional wildlife forage within the bison corridor and bison use areas that will be available to elk, deer, antelope, bighorn sheep and bison, 2) the level of grazing use by the small number of bison (25-100) allowed to move through the bison corridor should not have a significant impact on the habitat, and 3) the proposal includes a monitoring and range protection plan (see *Appendix D*, RTR Agreement Sections 5 & 7) that will establish baseline habitat conditions, monitor to detect any changes, and if necessary implement mutually agreed upon mitigation or habitat improvement projects.

There will be a seasonal increase in wildlife diversity and abundance with the addition of 25-100 bison (a game species) allowed to occupy the designated private and public land between YNP and Yankee Jim Canyon. Most of the bison use is anticipated to occur between January 1 and April 15 on public land north of the RTR. Prior to this proposal, all bison in this area were subject to herding back into YNP or lethal removal. There are no other significant anticipated changes in the diversity or abundance of other wildlife species as a result of the proposed action.

FWP does not anticipate any significant changes in diversity or abundance of nongame species because this proposal is unlikely to change wildlife habitats or ecological relationships in noteworthy ways.

The proposed action should not result in a barrier to the natural north-south migration of bison or other ungulates. The bison fence has been located and designed to allow and direct bison to successfully migrate north without blocking passage anywhere along the corridor. With regard to other ungulate species, design along with the fence management efforts will mitigate the impact of fencing on wildlife migration and movements. Likewise, there are no barriers along the corridor that will stop animals moving in a north-south direction. Such measures should result in allowing ungulates access to habitats that they normally use.

FWP owns and manages about 340,000 acres of wildlife habitat within its statewide Wildlife Management Area (WMA) system. Many WMAs were originally purchased to

provide winter range habitat for elk, deer, antelope, and moose. In Region 3, FWP's WMAs support large numbers of elk and other ungulates during the winter and spring seasons. In Region 3, FWP has designed, constructed, managed, and maintained over 237 miles of barbed wire and electric fencing on 11 WMAs totaling over 130,000 acres. Fences are used to manage livestock movements adjacent to and inside the WMAs. While boundary fences typically keep livestock out of the WMA, some WMAs incorporate rest-rotation livestock grazing systems that bring cattle inside to benefit both cattle and wildlife through vegetation management. Cattle grazing inside a WMA require additional fencing. All of our fencing must be compatible with wildlife movements.

FWP's goal with regard to fencing on its lands is to construct and maintain fencing that meets the objective of managing livestock while providing a fence that allows wildlife to cross and access important habitats and forage. Experience on FWP's WMAs and elsewhere indicates that over time wildlife can successfully adapt to living with and crossing barbed wire and electric fences as long as the fences are of reasonable height, have adequate wire spacing, do not incorporate woven-wire fencing material, and provide that animals are allowed to explore and cross the fence at their own pace. In FWP's experience, wildlife-fence collisions and accidents often occur when animals are forced or chased into a fence line. Such situations may arise when animals are pursued or harassed by natural predators, dogs, or people.

In areas where bison occur, fencing designs often need to be modified. Since 1991on the 34,000 acre Robb-Ledford WMA, FWP has been challenged to keep a large herd of bison out of the WMA along a 15 mile border with the Snowcrest Ranch while allowing elk, deer, and antelope to cross the same fence. FWP has learned from years of experience with bison on the Snowcrest Ranch that fencing must be a minimum of 48" high and electrified to be effective in controlling the movements of bison (Personal communication, Fred King, FWP R-3 WMA Manager). The 15-mile bison fence currently along the Robb-Ledford WMA is a combination of 48" high, 4-strand high tensile smooth wire electric fence and 58" high, 6-strand high tensile non-electrified fence. Both fencing designs are effective at keeping bison out yet allow elk, deer, and antelope to cross freely on their own when they are not forced into the fence line. FWP has found in the case of the 58" high, 6-strand fence, wildlife that does not jump over the fence find their way through the fence, slipping between the wires or going under the bottom wire. For strictly wildlife crossing purposes, FWP prefers the use of the lower profile 48" high, 4-strand electric fence in situations where bison movement must be controlled (Personal communication, Fred King, FWP R-3 WMA Manager). The fence being recommended for the RTR project is very similar to the 4-strand design used on the Robb-Ledford WMA boundary.

For the proposed fencing project, FWP and RTR consulted with two well-known bison and bison fencing experts (Personal Communication, Duane Lammers and Dave Dixon, 2007). The fence design and the mitigation measures taken (see below) are an effort to produce a fencing system that is impermeable to bison movement but permeable as much as possible to the movement of elk, deer, bighorn sheep, and antelope.

Based on advice from expert fencing consultants, several design related criteria related to height, spacing, materials, and fence features would be implemented. The electric fence will be only as high as necessary (approximately 48") to keep bison out, but will allow most deer, elk and bighorn sheep to cross by jumping over the top. Only the minimum number of wires (4; 2 electrified, 2 ground) will be used to keep bison out but also allow smaller animals to cross under or through fewer wires. Spacing distance of the 4 wires from the ground (preliminary heights: 20" high, 27" high, 38" high, and 48" high) will keep bison in, but allow smaller animals (particularly antelope) to cross under or through the wires more easily. Only two wires (the second from the bottom and the top) will be electrified which will facilitate smaller animals (antelope, small to medium sized mammals) crossing under the bottom wire. All wires will be 12.5 gauge high tensile strength smooth wires. No barbed wire will be used. The use of smooth wire greatly reduces the risk of animals accidentally catching and twisting a leg between two wires. If bison behavior within the corridor was different from what was presumed by IBMP partners and the fence design was inadequate to meet the needs of the project, the fence structure would be redesigned to meet public safety and wildlife needs.

Fence posts will be equipped with "take-down" stays over large distances or the entire fence length. The take-down feature will allow for seasonally removing (lowering) fence wires. Furthermore, the fence will only be operational (either electrified or in place) for at most 12-16 weeks (typically from approximately January 1 to April 20) when needed to restrict bison movements. In addition, the fence may be lowered once bison are through the RTR property depending on experience of implementing this proposal. For the remaining 36-40 weeks of the year, the power will be turned off and the wires for large selected distances or its entire length will be dropped to the ground for the benefit of wildlife movements. Fencing that transects the RTR active cultivated field will be designed so that it can be easily removed when bison are not present for the convenience of the ranch's agricultural activities. The downed fencing is projected to pose no hazards to wildlife species that move through or frequent the RTR during the spring, summer, and fall seasons.

Wherever possible, steep natural topography is used to form the western boundary of the bison corridor eliminating the need for fencing for large distances in several areas south of Mulherin Creek. Utilizing natural barriers reduces the length of fence construction.

As a result of removing cattle from the RTR, there is no longer a management need for much of the old cattle fencing that currently exists on the RTR. Over time, FWP anticipates the removal of a considerable amount of existing fencing, both barbed wire and old wooden "jackleg" fencing, within and adjacent to the bison corridor. Removal of the fencing should further facilitate wildlife movement through and across the corridor.

Detailed Analysis of Wildlife Resources

Based on ground and aerial observations since the early 1990s, FWP can make the following informed predictions regarding the expected type and amount of wildlife activity within and adjacent to the bison corridor during the 12-16 week period (January 1-April 20) when the proposed bison fence is operational (i.e., with wires electrified and

suspended in place). During the 36-40 week non-operational period (April 21-December 31), the fence will not be electrified and the fencing wires will be lowered (dropped down) over large portions or the entire length of the fence allowing more freedom of wildlife movement in the area.

Elk: During the January 1-April 20 time period, most of the elk use west of the Yellowstone River occurs in foothill habitats in the Beattie Gulch, Spring Creek, Aldridge Lake, Cinnabar Mountain, Cinnabar Basin, Trestle Ranch, and Cutler Lake areas west of the bison corridor. However, some of the elk wintering west of the Yellowstone can be expected to drop down moving to the east onto lower elevation flats along the bison corridor at night and in early morning hours to forage on available vegetation. Most of this activity occurs west of the proposed bison fence, but a certain number of elk will likely cross the fence in places and forage between the Yellowstone Trail Road South and the river, returning westward to the foothills in the early morning hours.

Mule Deer: During the first half of this time period, most deer activity will occur in the foothills and at higher elevations west of the bison corridor. From late March through April as spring green-up occurs, mule deer use of lower elevation sagebrush grassland flats increases significantly. Large numbers of mule deer will feed at lower elevations between Beattie Gulch and the Devil's Slide and also in the Trestle Ranch hay meadows north of Mulherin Creek during this time period. Deer activity will occur on both sides of the Yellowstone Trail Road South, but again most deer will be on the west side of the road. Of all ungulate species in the bison corridor area from January 1-April 20, mule deer are expected to be the most numerous species and account for the majority of wildlife fence crossings, particularly in April.

Antelope: At current antelope population levels and habitat conditions, few antelope are expected to occur in the bison corridor north of YNP between January 1 and April 20. During this period, virtually all of the antelope in this population are located on their traditional winter range to the south in YNP in the Mammoth, Mt. Everts, and Stephens Creek areas. Some additional antelope use north of the Park may occur in late summer or early fall when the bison fence will not be operational. Antelope have occasionally moved the length of the Gardiner Basin, through Yankee Jim Canyon, and out into the Carbella area in Paradise Valley.

The low elevation route through the RTR and Yankee Jim Canyon is an important albeit seldom used antelope migration corridor that should be maintained. Based on the IBMP guidelines for restricting bison movements within Zone 2, the proposed project utilizes a cattle guard and fence across the Yellowstone Trail Road right of way at a narrow spot in Yankee Jim Canyon to block bison movement to the north. To address potential antelope movement into Paradise Valley, FWP will recommend that during the 36-40 week non-bison period (April 21-December 31) a cover be fastened in place over the cattle guard and the adjacent fencing be dropped down or removed. These measures should allow antelope the same freedom of movement to the north that they presently have during this 36-40 week period. During the 12-16 week winter period when the cattle guard and

fence are operational, antelope should be able to easily cross under the lowest wire set at a height of 20".

Bighorn Sheep: During most of this time period, bighorn sheep will occur in Beattie Gulch, Spring Creek foothills, Devils Slide, Cinnabar Mountain, Mulherin Canyon, and in the foothills and cliffs behind the Trestle Ranch north of Mulherin Canyon. During portions of this period (particularly late March and April), some bighorns can be expected to periodically use the lower elevation flats along the bison corridor from Spring Creek north to Cinnabar Basin Road as the vegetation greens up. Most of this use occurs west of the proposed bison fence, but a small number of sheep will likely cross the fence and forage between the fence and the river and then return westward toward the foothills. Bighorn sheep movements will typically occur during daylight hours.

Bison: With respect to bison use and movements on the RTR, the Agreement is consistent with the IBMP that during the first year no more than 25 seronegative bison will be allowed to move through the bison corridor and onto public land north of the RTR. All other bison will be subject to herding, capture, or lethal removal following as provided for by the IBMP. Based on experience and success over time, there are stipulations for increasing the number of bison allowed north of YNP in this area up to 100 bison. Any adaptive changes in the IBMP will be incorporated into the Agreement, subject to the approval of the RTR that will not be unnecessarily withheld.

Threatened Species:

Canada Lynx -

There have been no recent observations of lynx reported in the Gardiner Basin. However, there is the potential that lynx do inhabit the multi-story forests in the higher elevations of the Gallatin National Forest where prey can be found. The proposed project will occur in habitat categorized as sagebrush/grasslands. These areas are not typically lynx habitat nor are areas where snowshoe hares inhabit. There is the potential that lynx may move through the bison corridor when the proposed new fence is operational. The design of proposed fence would accommodate a lynx's movement under the lowest wire which will be set at a height of 20" and will not be electrified.

Gray Wolf -

Wolves are known to frequent the area. The anticipated design of the seasonal fence is not expected to impede wolf movements in and through the Royal Teton Ranch property nor expose wolves to unnecessary danger since the lowest fence wire will be 20" above the ground. Wolves can successfully crawl under fence wires set 20" above the ground and will not be electrified. Wolves can also reasonably be expected to jump and clear a fence 48" high, although behaviorally speaking jumping over fences is less common than crawling under the lowest wire.

Sensitive Species:

Wildlife Species	Proposed Action	Habitat Comments Related to Project Area
Grizzly Bear	MIIH	See following analysis
Bald Eagle	NI	Disturbance impacts from project implementation should be of short duration and, therefore, not consequential. The presence of the fence will not negatively alter habitat conditions.
Black-backed Woodpecker	NI	Human activity associated with the project will not alter habitat conditions. Short and long-term disturbance impacts will be minimal.
Flammulated Owl	NI	Habitat is not found at the project site. Consequently, no impacts are expected due to human activities related to project implementation.
Harlequin Duck	NI	The Yellowstone River is nearby, but the project does not involve the riverbank or associated riparian area. Therefore, no impacts are expected due to human activities related to project implementation.
Peregrine Falcon	NI	No impacts to this species are expected from project implementation.
Townsend's Big-eared Bat	NI	The project is not likely to create an impact for this species considering that its presence in or near the site has not been verified.
Wolverine	NI	Human activity within the project is not expected to alter habitat conditions and should create very little disturbance impacts.
Trumpeter Swan	NI	Wintering and nesting habitat is not found at the project site. Human activity associated with the project is not expected to impact trumpeter swans.
Boreal Toad	NI	This project does not involve alteration to riparian areas. Consequently, implementation will not impact boreal toads.
Northern Leopard Frog	NI	Potential habitat is scattered across the Forest. No impacts from project implementation are expected due to the nature of the proposal and its apparent absence from the area.

NI = No Impact; **MIIH =** May impact individuals or habitat, but will not likely result in a trend toward federal listing or reduced viability for the population or species. (Source: Tyers, USFS Biological Assessment for Terrestrial Wildlife Species: Gardiner Basin Bison Fence Construction. 2008)

Grizzly Bear -

The project site is within spring, summer, and fall grizzly bear habitat. However, grizzly bear activity is not encouraged or desired along the Yellowstone river corridor because of the aggregation of human activities and facilities. These influences are part of the documented environmental baseline of existing effects on grizzly bears. In addition, the major activities that already occur in the analysis area have had displacement effects on grizzly bears.

Steep, relatively inaccessible slopes on northern and western aspects at high elevation characterize grizzly denning habitat. Habitat meeting this description is not immediate to the proposed project site, and consequently, impacts to denning habitat are not an issue.

Any human use has some potential to attract bears because of the possible availability of food items. However, this project by nature will not generate any new bear attractants.

The implementation of this proposal is not anticipated to have additional cumulative effects over the current grizzly bear conditions because no vegetation alteration, road construction, or livestock use are authorized.

No Action Alternative, Predicted Consequences:
Step 1 of the IBMP would continue to provide guidance and dictate the responses of partner agencies to control bison movements beyond YNP northern boundaries. There would be no changes to the diversity and movement of game and non-game species that are known to use the RTR and the Gardiner Basin area. The only barriers to animal movement would be the existing barbed wire and jackleg fencing, which are known to the indigenous wildlife and have been present in the migrations routes for numerous years.

3.2.4 Vegetation

Affected environment:
Adjacent uplands within a 1-kilometer buffer to the Yellowstone River include benches, slopes, cliffs, and rock outcrops from the historic river bottom. These benches and slopes support shrublands and mountain grasslands which are present in the proposed RTR bison corridor. A 2002 range inventory was completed for a conservation easement between the ranch and the FS at the Devil's Slide area which is at the northern edge of the RTR bison use corridor. The surveyed area is indicative of the vegetation present within the rest of the bison use corridor (Ecosystem Research Group, 2002).

The range survey identified the majority of the plants were grasses including crested wheatgrass, Idaho wheatgrass, needle and thread, bluebunch wheatgrass, prairie Junegrass, Indian ricegrass, basin wildrye, and intermediate wheatgrass. Forbs present included hairy golden-aster, mustard, fringed sagewort, Russian thistle prickly pear cactus, and pussytoes. Finally, a small portion of the vegetation noted in the survey included woody plants such as sagebrush, rubber rabbitbrush, willow, cottonwood, and prickly currant. A rangeland baseline survey will be attached to the RTR Grazing Agreement as Exhibit E.

The ranch's cattle grazed approximately 10 acres of the designated bison use corridor until the spring of 2008. The removal of cattle from the ranch will allow native vegetation to recover from historic grazing pressures and increase forage for wildlife species using the area. The ranch currently grows hay on their remaining agricultural land. The hay fields will continue to provide forage for wildlife as they have in the past.

Preferred Alternative, Predicted Consequences:
In impacts reported in both the Bison Management Plan EIS (2000) and the Bison Hunting EA (2004), bison and other ungulates had significantly changed the sagebrush, riparian, aspen, and low elevation conifer communities within the Yellowstone Northern Winter Range but had much less impact on grassland communities. Data used in those environmental analyses noted that bison removed large quantities of forage and may have influenced productivity and even distribution of some habitats. However, research

showed those impacts do not necessarily represent- an abnormal ecological state. In ecological systems where ungulates are abundant, grazing and trampling from animals are normal ecological processes and are expected to influence plant communities. Furthermore, no data was found to prove that numbers of 2,000-5,000 bison, the range of population size for YNP over the past 20-years, has had long-term negative impacts on plant communities, although this project only allows for a maximum of 100 bison to move through the ranch.

Historically, bison moved through open plains, grasslands, and woodlands. Because of concerns from the livestock industry about transmission of brucellosis, the Yellowstone bison have been confined to a limited range. Bison are grazers and feed on grasses, forbs, and sedges. The massive head is used to sweep snow away from forage. They possess a greater digestive capacity than cattle. In Yellowstone National Park, sedges are most important in all seasons, grasses second in importance. Forbs and browse are minor components in their diet.

Based on the vegetation resource data used in both environmental assessments and in consideration that the number of bison permitted to move through the RTR is capped per the IBMP, FWP expects there will be no major impacts to the vegetation within the corridor by the implementation of Step 2.

No Action Alternative, Predicted Consequences:
Existing cultivation of alfalfa and other small crops would continue on the RTR.

If the grazing agreement was not initiated, FWP predicts overall grazing pressure on the proposed bison corridor acres would not change from existing levels unless significant changes in ungulate populations and cattle occurred.

3.2.5 Recreation Resources Including Hunting

Affected Environment
The RTR allows members of the Church Universal and Triumphant, which is the parent organization of the ranch, to access the property for day hikes, antler hunting, and overnight camping in the backcountry areas. The backcountry areas are closed to members from September 1 through November 30 because of potential conflicts with hunting activities and a commercial hunting lease.

Through the 1999 FS Conservation Easement, hunting, trapping, and fishing, in the manner consistent with federal and state laws and regulations, are permitted on the easement land. RTR currently allows hunting and fishing on its lands by their members and by an authorized licensed outfitter. No other public access is permitted without RTR authorization.

Preferred Alternative, Predicted Consequences:
The proposed grazing agreement between FWP and RTR will not change the recreational opportunities offered to its members within ranch boundaries. No new opportunities will be extended to the public on the ranch.

However, with the movement of bison through the corridor, the public will have a new opportunity to view bison from the county road and on Forest Service lands at the northern end of the corridor. Although there are no completely objective valuation methods to separate income generated by bison from that generated by other characteristics of YNP and the Gallatin National Forest, some of the entrance fees and other costs (gas, food, etc.) could be attributed to bison because they are reported to be one of the top three animal species visitors would like to see in YNP (Bison Hunting EA, 2004).

Additionally, if the implementation of Step 2 of the IBMP and the movement of the bison through RTR were successful, FWP may potentially consider implementing an additional bison hunting district beyond the RTR on public land for hunting opportunities per existing bison hunting state laws and regulations. Recreational hunting activities typically have a positive impact on local economies.

No Action Alternative, Predicted Consequences:
If the grazing easement were not enacted, the RTR would continue to manage recreational activities on the property as they are currently defined. Public access would remain very limited and subject to RTR permission.

Tribal Treaty Hunting -
Under their 19th century treaty rights, members of the Nez Perce and Salish Kootenai Tribes could hunt the bison that moved through the RTR bison corridor to Forest Service (FS) public lands. These two tribes are currently the only tribes recognized to have treaty hunting rights in the Yellowstone area. Treaty-based hunting privileges do not apply to private property, thusly no treaty-related hunting activities would be allowed on the RTR when the bison are moving through the corridor that would be created pursuant to the Agreement.

3.2.6 Cultural & Historic Resources

Affected Environment
Prehistoric man, Native American tribes (Shoshone and Nez Perce), explorers and miners, and early visitors to Yellowstone National Park used the Yellowstone River corridor from Gardiner north to Yankee Jim Canyon. Remnants of those travelers and residents have been found through numerous cultural resource surveys completed over the past two decades.

In the 1860s, placer mining for gold began to affect the corridor and with it miners and settlers began to reside along the river. In 1871, James George (AKA Yankee Jim) built a cabin and road at a narrow canyon along the Yellowstone River and began charging a

toll to travelers headed for the towns of Cinnabar, Gardiner, or areas further south. When the Northern Pacific Railroad reached the area in 1883, the railroad purchased the right-of-way from Yankee Jim to expand their lines south to Cinnabar and then to Gardiner in 1902.

By 1903, when President Roosevelt visited the area for the cornerstone-laying ceremony for the entrance of Yellowstone National Park (YNP), Gardiner's population had grown from 200 in 1883 to over 400 in 1922. The nudge for expansion into the area occurred in 1915 when the Yellowstone Trail Road was completed from Livingston and YNP was opened to automobile traffic. The population of the area has expanded and contracted over the years following mining efforts. As of the 2000 census, Gardiner has a population of 851.

Some relics are visible from the Yellowstone Trail South Road that runs the length of the RTR bison corridor such as the brick coke ovens from 19th century gold and coal mines. Other remnants from prehistoric and historic occupants include lithic scatter, fire hearths, building foundations, railroad beds, stage routes, and antique trash dumps.

In cultural resource inventory reports completed by Fredlund (1987) and Deaver (1989), both surveys located culturally and historically sensitive sites within the bison corridor's boundaries. Of the six sites discussed in those reports that fell within the proposed corridor, all but one was related to corridor's 19th and early 20th century mining and agricultural history. The single prehistoric site contained lithic scatter and small cairns toward the southern edge of the bison corridor.

Preferred Alternative, Predicted Consequences:
The movement of the bison within and through the corridor is not expected to disturb any known or undiscovered cultural or historic sites because the number bison allowed in the corridor is very limited, the forage methods employed by the bison do not require any groundbreaking or ground disturbing activities, and under normal winter conditions, most of soil surface will be covered by snow or frozen.

The fencing activities required to fully implement the agreement and Step 2 of the IBMP will involve the digging and placement of approximately 1,800 fence posts based on the preliminary design specifications (See *Appendix B* for fence diagram). Additionally, the installation of the cattle guards will require large trenches to be dug across the access and county road.

FWP contacted the State Historic Preservation Office (SHPO) to learn of the extent of the cultural and historic resources within the proposed bison corridor. Because of the area's use by prehistoric, historic and modern human inhabitants and the remnants of their presence have been found by previous cultural resource surveys, SHPO has recommended FWP conduct a cultural resource survey along the fencing path in order to determine whether or not sites exist and if they will be impacted.

Since all construction efforts will be completed on either private, federal, or county owned land, the Montana State Antiquities Act does not apply (22-3-424 MCA). That act only applies to state owned lands and would have required FWP to develop, in consultation with SHPO, methods and procedure to ensure the identification and protection of cultural and historic sites found during the installation of the fencing and cattle guards. Because FWP does not own any of the land within the bison corridor, any historic resources discovered in the course of the installation efforts are the responsibility and property of RTR, Gallatin National Forest, or Park County. Based on the existing circumstances, FWP is not required to conduct a cultural resource survey along the proposed fence line.

No Action Alternative, Predicted Consequences:
Cultural and historical resources existing on the RTR will remain the responsibility and property of the Royal Teton Ranch (RTR) and would be subject to any future activities undertaken by the ranch. FWP is unable to predict with accuracy what the ranch's future ground disturbing activities might entail within the boundaries of the defunct bison corridor.

3.3 Other Resource Issues Considered but Eliminated from Detailed Analysis

The Montana Environmental Policy Act (MEPA) provides for the identification and elimination from detailed study of issues which are not significant or which have been covered by a prior environmental review, narrowing the discussion of these issues to a brief presentation of why they will not have a significant effect on the physical or human environment or providing a reference to their coverage elsewhere (ARM 12.2.434(d)). While these resources are important, they were either unaffected or mildly affected by the proposed action or the affects could be adequately mitigated.

A few issues were found not to be significant to the decision and were eliminated from further detailed analysis. In general, the reasons for eliminating these issues included:

- Experience and/or analysis from other bison management related documents have demonstrated that effects related to this issue are not noteworthy.
- The proposed action included mitigation, which in effect alleviated any major impact to the resource.
- They were not relevant or specific to this proposal for a grazing agreement with the Royal Teton Ranch (RTR).

3.3.1 Soils

There are approximately 2,800 acres within the RTR grazing agreement. Soils in the bison use areas of the RTR include Soils Mapping Units 35-4C, 46-2A, 54-1A, 54-2D, and 87-2C as classified by the U.S.D.A. National Resources Conservation Service Web Soil Survey database. Soils of these types are considered moderately erodible.

During initiation of Step 2 of the IBMP, 25 bison will be allowed to moved through the RTR to access Forest Service property north of the ranch from January 1-April 1. If the initial group's behavior and movement is within anticipated tolerances, in time the

number of seronegative bison allowed in to the RTR bison corridor could increase to 100 animals.

Although the number of animals using the bison corridor may fluctuate over time, the ground will likely be frozen when the bison are using the area and browsing for forage. Soil disturbing activities caused by bison is expected to be very limited, especially if there is snow cover. This limited impact is also expected on roadways as well.

Some soil groundbreaking activities will be required for the installation of the fence posts and cattle guards. Potentially, some post locations may be in the same spots of existing fence supports thus reducing the need for new postholes. These impacts will be limited to areas adjacent to Yellowstone Trail Road South and in short sections where bison will be directed away from residences and in non-bison use areas (i.e. Spring Creek).

3.3.2 Water Resources

The bison use corridor extends from the Reese Creek, across Spring Creek, to north of Mulherin Creek. Both Reese and Mulherin Creeks are active year-round and are often partially ice covered during winter. Reese and Mulherin Creeks are both lined with river rock. The likelihood that the bison's movements will change the existing bank conditions is low since the number of bison traveling through the corridor is limited and their movement will be during the winter months when water levels are low.

3.3.3 Utilities and Taxes

The bison use corridor follows the Northwestern Energy electrical power line path, and a small substation exists within bison movement area south of the Corwin Springs Bridge. Bison, like cattle, like to rub on fence posts and other objects. There is an existing chain link fence surrounding the equipment that will discourage bison from coming in close contact with the substation.

The grazing agreement will not alter the amount of property taxes Park County receives from the RTR. The agreement might lower the value of the ranch if it were sold within the 30-year agreement period, although to what extent is unknown

3.4 Bison Monitoring and Management

The implementation of Step 2 of the IBMP through the facilitation of the RTR Agreement will put into practice both the bison management plan specific to the RTR and the monitoring steps as defined in the IBMP.

As described in the Agreement's bison management plan, the Montana Department of Livestock (DoL) will have lead responsibility for monitoring bison activities as the animals move through the ranch. FWP will assist DoL and other IBMP partners in monitoring bison movement on a regular basis to ensure that bison remain within the designated corridor and that the bison move through the corridor in a reasonable length of time to reach the federal lands for grazing.

Additionally, as IBMP partners supervise bison movements north, they will also seek to discourage bison movement toward the Yellowstone River to ensure spatial and temporal separation between bison and domestic cattle east of the river. If bison cross the Yellowstone River, they will be handled under the current IBMP guidelines, i.e., if bison cannot be successfully hazed back across the river, they are subject to lethal removal.

After January 1, bison are expected to move through the RTR bison corridor to the federal lands north of the ranch. Once bison have moved onto federal lands north of the ranch, the DoL with partner assistance will take appropriate management actions to prevent them from moving south until the end of the winter grazing period.

By April 15, the DoL, with assistance from other IBMP partners, is expected to move bison south through the bison use areas and RTR bison corridor and back to YNP. Alternatively, in the event that a capture facility is constructed on federal lands north of the ranch, bison may be captured and shipped to the Stephens Creek capture facility for release inside YNP. Bison attempting to move north following the end of the winter period will be moved back into the Park.

The IBMP Operating Procedures will guide the specific bison management actions employed on the ranch. Where there is a choice of management actions, preference should be given to the least obtrusive method. Lethal management will not occur on the ranch unless other less extreme management actions have failed or as a last resort to protect persons or property.

In the event that bison birthing material is found on the ranch, the IBMP partners shall promptly and properly dispose of such material. In the event a bison is killed or dies on the ranch, the IBMP partners, at the request of the RTR, shall promptly and properly dispose of the remains in a location off the property.

3.5 Reasonably Foreseeable Consequences of the Proposed Action

The implementation of Step 2 of the IBMP through the RTR Agreement could facilitate the partners' understanding of both bison and the public tolerance to a controlled effort to allow bison to move beyond the boundary of YNP. The terms and conditions of the agreement are expected to test the agencies' assumptions used to draft Step 2 of the bison management plan and will likely require some adaptation of the plan to reflect in-the-field experiences.

Even though the IBMP identifies a maximum of 100 bison to be allowed to roam through the RTR, as acknowledged in the agreement, FWP and the Church recognized the possibility that a decision may be made to move to Step 3 of the IBMP or allow an additional number of bison in to the corridor during the course of the 30-year term of the agreement. This decision and any subsequent amendments to the agreement would only be made if experience shows that agency partners are able to consistently and effectively contain bison within the bison corridor and bison use areas and that bison are not adversely impacting public safety, private property or habitat conditions; and the proposed amendment is consistent with the terms of the existing conservation easement between the RTR and the Forest Service.

In Step 3 and if the following criteria were met, untested bison would be allowed to move north of YNP within Zone 2 (RTR bison corridor). Those criteria as defined in the IBMP are:

- bacterial viability and fetal disappearance research described in Step 2 of the IBMP is sufficient to allow agencies to determine an adequate temporal separation. Based upon the research, the agencies will recommend the period of temporal separation. The final decision on the duration of temporal separation after April 15 will be made by the Montana State Veterinarian
- initiation of a vaccination program of vaccination-eligible bison outside the Park and inside the Park with an effective remote delivery system
- demonstrated ability to enforce spatial separation
- demonstrated ability to control the maximum number of bison in Zone 2 which maximum number will be determined pursuant to the number of bison approved to travel in the corridor in Step 2.

FWP and agency partners would continue to monitor and manage bison attempting to emmigrate out from YNP and all bison would be returned to YNP by April 15. Management techniques would be similar to those used in Step 2 which would include hazing, capture and testing, and lethal removal.

3.6 Need for an Environmental Impact Statement

FWP concludes that none of the impacts associated with these alternatives would have a significant impact on the physical environment or human population in the area. In determining the significance of each impact, the criteria defined in the State of Montana's Administrative 21.2.431 was used. Although there is the potential that the specifics of the Agreement may require adaptations, either in response to the behavior of the bison or to the design of the fence, it is not expected those adaptations would extend beyond the analyses found within this assessment. FWP will continue to manage bison per the guidance of the IBMP, as adopted.

This environmental assessment is therefore the appropriate level of analysis for the proposed action and an environmental impact statement is not required.

4. CONSULTATION AND COORDINATION

4.1 Contributing Agencies and Offices

Montana Department of Livestock
Montana Fish, Wildlife and Parks
- Design and Construction Bureau
- Enforcement Division
- Lands Bureau
- Legal Bureau
- Wildlife Division

Montana Historical Society, State Historic Preservation Office
Montana Natural Resources Information System
Park County Maintenance Department, Livingston MT
Royal Teton Ranch, Corwin Springs MT

U.S. Forest Service, Gallatin National Forest, Gardiner District
U.S. National Park Service, Yellowstone National Park

4.2 Public Involvement

The public was engaged and given the opportunity to participate in the formulation of the bison management plan during the environmental impact statement (EIS) process via scoping meetings, public meetings, and a public comment period. The product of the EIS was the Interagency Bison Management Plan (IBMP) which is being used to guide the proposed action. The public comment period for that draft EIS was from June 16, 1998 until November 3, 1998.

A scoping notice was published on July 11, 2008, in the Bozeman Chronicle and Livingston Enterprise, and on the FWP website to solicit comments if FWP should purchase the grazing rights from the RTR and install and maintain the corridor fencing. In addition, an open house on the proposed action was provided on July 30, 2008 from 4:00 p.m. to 8:00 p.m. at the Gardiner Community Center. All scoping comments were required to be submitted to FWP by August 11. Twelve individuals attended the open house, and four written comments were received. All of the written feedback requested the EA address concerns about the construction of a fence in a migratory corridor, how the fence might impact indigenous wildlife, exact location of the fence, costs associated with the fences' construction and maintenance, bison management strategies for those animals in moving in the RTR, and the time period the fence would be operational.

The public will be formally notified of the EA's availability and comment period in the following venues:

- Two public notices in the paper: *Helena Independent Record, Bozeman Chronicle, and Livingston Enterprise;*
- One statewide press release;
- Public notice on the Fish, Wildlife & Parks web page: *http://fwp.mt.gov*.

Copies of this environmental assessment will be distributed to the standard distribution list and those expressing previous interest in this issue.

The public comment period will extend for (25) twenty-five days following the publication of the second legal notice in area newspapers. Written comments will be accepted until 5:00 p.m., October 31, 2008, and can be mailed to the address below:

Royal Teton Ranch Grazing Rights Purchase Agreement
Montana Fish, Wildlife & Parks
PO Box 200701
Helena, MT 59620-0701

Or email comments to: RTRgrazing@mt.gov

4.3 List of Preparers

Rebecca Cooper, MEPA Coordinator
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Tom Lemke, FWP Wildlife Biologist
Livingston, MT

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APPENDIX A

Interagency Bison Management Plan
OPERATING PROCEDURES
Originally signed December 6, 2002
Updated November 16, 2007

Introduction

These operating procedures outline the action items necessary to implement the cooperative Interagency Bison Management Plan (IBMP) as set forth in the Records of Decision issued by the State of Montana and the federal agencies. All actions described in this document are interpreted to be consistent with the IBMP. Cooperating federal and state agencies include the National Park Service (NPS), U.S.D.A. Forest Service (USFS), U.S.D.A. Animal and Plant Health Inspection Service (APHIS), Montana Department of Livestock (MDOL), and Montana Department of Fish, Wildlife and Parks (MFWP). In compliance with the National and Montana Environmental Policy Acts, the IBMP has been analyzed in federal and state Environmental Impact Statements and the respective federal and state of Montana Records of Decision.

Purpose

The purpose of these operating procedures is to implement actions set forth in the IBMP, and will remain in effect until replaced by subsequent updated Operating Procedures.

Jurisdiction and Legal Mandates

All agencies involved have agreed upon a plan to manage bison in Yellowstone National Park and Montana as set forth in the IBMP contained in the Records of Decision. Outside the park, MDOL has the lead responsibility for all bison management actions and may request assistance from MFWP, USFS, APHIS and NPS. USFS personnel will be responsible for federal resource related violations on USFS administered lands. Property damage issues on private lands will be the joint responsibility of MFWP and MDOL. Upon request from MDOL, through the Gallatin and/or Park County Sheriff's Office, USFS law enforcement personnel will provide support, for hazing, capture and removal operations. MFWP and MDOL both have responsibility regarding the Montana bison hunt as directed by State statute. Inside the park, NPS has the lead responsibility for all bison management actions. As described in the IBMP, in step 1 the agencies will cooperate with the Royal Teton Ranch to develop a Bison Management Plan for the RTR that is consistent with the provisions of the IBMP.

Media Relations/Public Information

Each agency manages their media relations concerning bison management. For information on bison management procedures within the state of Montana, MFWP will take the lead responsibility for issues regarding the bison hunt and MDOL will take lead responsibility and coordinate media information on all other issues. For all activities occurring within the

boundaries of Yellowstone National Park, the NPS will take lead responsibility and coordinate media information. News releases or media contacts shall be handled by only those so designated. Cooperating agencies will also jointly represent and support management activities under this agreement with joint press releases and other associated media.

Organization

The Incident Command System will be used to implement actions/operations associated with the IBMP within the park. Positions in the command structure will be filled, as necessary, to assure effective mission accomplishment. All agency personnel conducting bison management actions as set forth in the IBMP remain subject to that employee's agency supervision and personnel management authorities. Bison management operations within the park will be under the authority of the Chief Ranger or designee. The Incident Command System will also be used to implement actions/operations associated with the IBMP outside the park. Bison management operations occurring outside the park will be under the direction of an on-site Operations Chief from MDOL. Hazing, shooting, capture, research and monitoring operations will include participants from MDOL, APHIS, MFWP, NPS, and USFS. Agencies expect to cooperatively support the numerous bison management activities described in this document below, but recognize that within any denoted management operation, any agency would not be required to provide all types of support concurrently (Attachment 1). Under a unified command structure, each agency involved may designate an Incident Commander to represent that agency in command decisions. At no time will there be more than one Operations Chief, regardless of the number of Incident Commanders.

Monitoring and Reporting of Bison Movement and Management Activity

Bison movement and activity within Yellowstone National Park: The Division of Resource Management and Visitor Protection in Yellowstone National Park will be responsible for monitoring, recording and notification of bison activity within the park and in the Eagle Creek/Bear Creek area. When it appears likely that bison will migrate out of the park (within 24 hours) near West Yellowstone, Montana, or Gardiner, Montana, or near the Little Trail Creek-Maiden Basin hydrographic divide, Yellowstone National Park shall notify the Helena office of the MDOL. Weekend and holiday notification of bison activity will be made to specific individuals, as designated by the Executive Officer for the Montana Board of Livestock. Monitoring activities in the park will increase in frequency as the distance of bison from the boundary decreases. Bison activity west of Hell Roaring Overlook and west of Seven-Mile Bridge will be reported, monitored, and recorded daily as bison activity dictates. Bison activity between Madison Junction and Seven-Mile Bridge will be reported, monitored, and recorded when logistically possible and as bison activity dictates under the following conditions 1) twice weekly between October 1 and November 30, 2) daily between December 1 and April 30. The park will determine when aircraft will be used to monitor bison movement within Yellowstone National Park. Inclement weather and observations from the road may prevent observation of all bison movements out of the park.

During the winter season, NPS personnel will prepare bi-weekly reports that summarize inter-agency bison monitoring, hazing, capture, vaccination, shooting and other management actions within these operating procedures and the IBMP, which will then be promptly shared by email with all agencies under the IBMP. Descriptions of respective agency bison management actions should be shared for incorporation into these bi-weekly bison management reports.

Monitoring Bison Movement and Activity Outside of Yellowstone National Park: The following general monitoring schedule will be in effect during those times when bison are most likely to move out of the park. This schedule will be considered the minimum acceptable monitoring frequency, with the understanding that more frequent monitoring may become necessary. The agencies shall monitor and record bison sightings and locations outside of Yellowstone National Park in both the western and northern boundary areas on a weekly basis or more frequently, if deemed necessary or as set forth in the IBMP. The agencies shall agree to any changes in a monitoring schedule for each of the agencies. The timely reporting of bison sightings and locations is necessary to facilitate operations necessary to fulfill the objectives set forth in the IBMP. The agencies will provide to NPS and MDOL copies of the pertinent monitoring and other management reports, as soon as available, to become part of the historical record to be maintained by the YCR and the Executive Officer of the Montana Board of Livestock.

The agencies will monitor bison in the Eagle Creek/Bear Creek area twice per week during the winter. If bison approach the Little Trail Creek/Maiden Basin hydrographic divide, they would be monitored daily or more often as needed. Yellowstone National Park shall notify MDOL when it appears likely that bison will migrate out of the park (within 24 hours) near West Yellowstone, Montana or Gardiner, Montana, or near the Little Trail Creek-Maiden Basin hydrographic divide. Bison in the Absaroka Beartooth Wilderness area would not be monitored or managed in any way, except for human safety concerns. The agencies may agree to other monitoring provisions on a case-by-case basis. The agencies will periodically monitor bison that may move in the Cabin Creek Recreation and Wildlife management area, the Monument Mountain Unit of the Lee Metcalf Wilderness or in the Upper Gallatin River above the mouth of Taylor Fork. Periodic monitoring of bison would facilitate actions that may be necessary to prevent bison from crossing the Sage Creek-Wapiti Creek divide. Bison may attempt to winter in these areas but are expected to return to the park in spring. Bison may use these areas during all seasons provided they are not causing property damage, or are approaching the cattle allotments in the Taylor Fork when cattle are present.

Hazing

Hazing of bison may be attempted to discourage bison from leaving the park, to move bison back into the park from outside the park, move bison within Zone 2, or to move bison further into the park away from the park boundary to achieve the risk management objectives of the IBMP.

Hazing may be accomplished by agency personnel using ATVs, snowmobile, on foot, horseback

and/or helicopters and may include the use of crackershells or rubber bullets. These methods may be used singly or in combination, subject to applicable restrictions. The safety of personnel will be the primary consideration in any hazing operation, and at no time will the safety of personnel be compromised.

The IBMP partners will make efforts to integrate the risk management interests of the IBMP with recognized aboriginal tribal hunting on unclaimed federal lands outside the park. MFWP will take the lead responsibility in communication on these mutual interests with the tribes. Efforts will be made to integrate tribal interests, along with public and personnel safety, during all hazing operations.

The Chief Ranger or designee will determine the timing, location, and duration of hazing within the park in accordance with the Records of Decision. The NPS is the lead agency to implement hazing within Yellowstone National Park. The NPS may request assistance from employees or personnel from other federal agencies or from MDOL and MFWP, acting as designated cooperating agencies. MDOL is the lead agency to implement hazing outside of Yellowstone National Park. Similarly, MDOL may request the assistance of MFWP, NPS, and USFS.

Bison Distribution

Subject to the criteria set forth in the IBMP, the distribution of bison outside Yellowstone National Park will be limited to certain lands adjacent to the park in Management Zone 2 in the West boundary area, Management Zone 2 in the Reese Creek area north of the park, and other areas described in the IBMP, including the Eagle Creek/Bear Creek area North of the park.

During Step 1, all bison that enter the western boundary area outside Yellowstone National Park during the period from May 15 through October 31 will be hazed back into the park or removed as set forth in the IBMP. During the period from November 1 through May 15, bison in the western boundary area may be hazed, captured, or subject to lethal removal according to provisions set forth in IBMP and Record of Decision for the Montana bison hunt.

From approximately November 1 to May 15, as determined by the State Veterinarian, the presence of a limited number of untested bulls may be tolerated in Zone 2 of the West boundary area that meet the following criteria: are not likely to move or travel to areas where they are co-mingling with livestock and are not currently co-mingling with livestock; are not damaging property; and are not considered a public safety risk.

In Step 1, seronegative pregnant bison may not enter Montana until cattle are removed in Zone 2 in the fall. If cattle remain on private lands in West Yellowstone area within Zone 2 during the fall or winter, a buffer as described in the IBMP will be maintained until the cattle are removed from those lands. The State of Montana maintains jurisdiction for management of bison within Montana and the Montana State Veterinarian will determine whether untested bison may be allowed on public lands in the west boundary area.

During Step 1, management actions in the northern boundary area will be taken to haze bison back into the park or capture all bison that move north of Stephens Creek within the park before they enter any private lands in the vicinity of Reese Creek. Bison outside the park in the Reese Creek area that cannot be hazed back into the park and evade capture would be subject to lethal removal. No effort will be made to haze or remove bison from the Eagle Creek/Bear Creek area until the animals approach Little Trail Creek/Maiden Basin hydrographic divide.

Capturing bison

The NPS is the lead agency to implement bison capture within Yellowstone National Park. The NPS may request assistance from employees or personnel from other federal agencies or from MDOL and MFWP, acting as designated cooperating agencies. The MDOL is the lead agency to implement bison capture outside of Yellowstone National Park. Similarly, MDOL may request the assistance of MFWP, NPS, and USFS. All bison captured will be handled according to applicable methods for blood testing, pregnancy testing, vaccination, tagging, sorting safety, and hauling.

Outside the Park. When bison are outside the park, they may be moved into a capture facility by hazing and/or the use of weed free hay. When bison are brucellosis tested at the capture facility, back tags and/or other identification will be used in order to easily identify and separate seropositive from seronegative animals. All tested bison will be identified with an official metal ear tag. All released seronegative bison will be identified with an additional visual marking (either by clipping or a dye marking).

The agencies will be responsible for capturing and assisting with processing and sorting. MDOL or federal veterinarians will conduct brucellosis and pregnancy testing. It may be necessary to use a MDOL and/or APHIS contract veterinary practitioner(s) if the workload becomes a continuous daily occurrence. Work assignments of individual agency personnel may change depending upon time constraints, workload, and other duties.

As set forth in the IBMP, seronegative calves and yearling bison captured outside the park will be vaccinated with a safe brucellosis vaccine (currently expected to be RB51).

As set forth in the IBMP, seronegative, pregnant bison in the western boundary area may receive telemetry devices to facilitate brucellosis management. The agencies (primarily APHIS and MFWP outside the park and NPS inside the park) will be responsible for monitoring and reporting of telemetered seronegative, pregnant bison location(s), collection and reporting of data from telemetered bison. If a telemetered bison calves or aborts in management Zone 2 outside the park, the agencies will capture or remove the telemetered bison for testing to determine if the bison seroconverted and/or is brucellosis infected. The agencies will be responsible for location of calving or abortion sites that might occur in management Zone 2. Monitoring, location, calving or abortion site information, and post-calving/abortion test results will be reported to the

agencies.

As set forth in the IBMP, the responsible agencies and/or contract haulers will transport those bison to slaughter. Appropriate law enforcement personnel will provide security while animals are in transit. Bison to be hauled in trailer(s) to a release location or slaughter will be sorted, as facilities permit, for sex, size, and age to prevent injury. Bison to be released will be released as soon as practical after testing and sorting. All brucellosis seropositive bison will be consigned to slaughter and will be delivered to slaughter facilities as soon as practical after capture and processing. All appropriate identification will be retrieved from bison consigned to slaughter.

MDOL will contact slaughter establishments based upon the size, number and sex of the bison captured, and the number each plant may be capable of handling on a particular day. MDOL may request assistance of APHIS for arrangement of out of state slaughter and distribution. The slaughter establishments will be asked prior to receiving the bison if they can handle such a shipment and the bison will be transported to the slaughter establishment. The MDOL or federal meat inspectors will provide for meat inspection. Blood samples and selected tissue samples may be collected at the slaughter establishment.

Inside the Park. In Step 1, if hazing is unsuccessful, the NPS will capture bison to prevent bison movement north of the Reese Creek boundary area. The NPS will maintain capture and handling facilities in the Stephens Creek area within Yellowstone National Park. The NPS will operate the Stephens Creek facility for the purpose of capturing all migrant bison at this location as set forth in the IBMP. At the request and under the direction of the NPS, cooperating agencies may provide personnel (depending on training and experience) to assist in the operation of the facility. The agencies will maintain a list of approved veterinarians that will perform brucellosis testing at the Stephens Creek facility. Bison captured at the Stephens Creek capture facility will be managed as set forth in the IBMP after discussion with coordinating agencies. Bison captured at the Stephens Creek facility that test brucellosis seropositive, with the exception of those identified for research purposes, will be consigned to slaughter as set forth in the IBMP. Calf and yearling bison captured at the Stephens Creek facility that test brucellosis seronegative will be vaccinated for brucellosis. Brucellosis seronegative bison, except those identified for research purposes, captured at the Stephens Creek capture facility may be temporarily held at the capture facility and released when winter weather moderates in spring as set forth in the IBMP. The National Park Service personnel will load all bison consigned to slaughter from the Stephens Creek facility into transportation vehicles. As set forth in the IBMP, the responsible agencies and/or contract haulers will transport those bison to slaughter. Appropriate law enforcement personnel will provide security while animals are in transit.

MDOL will contact slaughter establishments based upon the size, number and sex of the bison captured, and the number each plant may be capable of handling on a particular day. The slaughter establishments will be asked prior to receiving the bison if they can handle such a shipment and the bison will be transported to the slaughter establishment. MDOL may request assistance of APHIS for arrangement of out of state slaughter and distribution. The MDOL or

federal meat inspectors will provide for meat inspection. Blood samples and selected tissue samples may be collected at the slaughter establishment.

Lethal Removal of Bison - Risk Management

The NPS is the lead agency to implement lethal removal operations within Yellowstone National Park. The NPS may request assistance from employees or personnel from other federal agencies or from MDOL and MFWP, acting as designated cooperating agencies. The MDOL is the lead agency to implement lethal removal operations outside of Yellowstone National Park. The MDOL may request the assistance of MFWP, NPS, and USFS. Inter-agency requests for assistance before a shooting operation occurs will be as timely as possible to plan for carcass salvage.

The MDOL is the lead agency for field slaughter, field dress, and resultant transport of bison carcasses that are removed outside the park under the terms of this plan. MDOL may request the assistance of MFWP, NPS, APHIS and USFS. Charitable organization(s) and/or Indian tribal governments would receive carcasses for distribution through their social service system. Indian tribal organizations or their designee(s) may receive the bison heads and hides. Bison carcasses, heads, and hides may be sold as provided for in Montana law (MCA 81-2-120(3)). Only designated agency personnel shall remove offal, fetuses, or stillborn calves.

The MDOL and the landowner shall determine whether to leave offal at site on private land. No offal will be left on site when grizzly bears may be present in the area to avoid human-bear conflict. All gravid uteruses and stillborn calves will be disposed.

All bison carcasses that result from management actions and are fit for human consumption will be salvaged except those to be used for research purposes. Those carcasses designated for research will not be used for any other purposes. After veterinary inspection, carcasses that are deemed unfit for human consumption will be condemned.

Research

All research activities conducted by the agencies will satisfy applicable permitting processes. The agencies will mutually keep each other informed of progress and results.

Safety

The safety of all personnel and the public is paramount in all aspects of bison management operations. No actions will be taken which compromise the safety of any personnel. Personnel involved will take all precautions to protect the security of operations. MDOL will coordinate directly with Montana Department of Transportation (MDOT) when operations will be within the highway rights-of-way and will coordinate with the USFS when operations will be outside the highway rights-of-way but on the National Forest.

MDOL will work with the MDOT and appropriate County Commissioners to facilitate signage and reduce speed limits on highways as needed.

Conditions attached to hazing, lethal removal, and/or retrieval of dead bison on private lands, will be made clear to the hazing or lethal removal teams and those individuals responsible for slaughtering, field dressing, or transporting bison carcasses. Under leadership of the MDOL, when feasible, reasonable attempts will be made to notify affected private landowners prior to operations.

Access/Approval to Operate on National Forest System Lands

The MDOL will need written authorization from the USFS prior to conducting hazing operations involving the use of motorized vehicles on National Forest System roads, trails or areas otherwise closed to the use of motorized vehicles. The MDOL will contact a representative from the USFS prior to the time when bison are to be hazed, captured, shot, or otherwise removed from lands administered by the USFS. The USFS will also provide direction, including requirements for the retrieval and field dressing of dead bison on lands administered by the USFS.

Assurance of General Security

The MDOL will contact NPS, USFS, and MFWP and, if necessary and appropriate, the local and state law enforcement agencies with jurisdiction to assure that necessary and appropriate actions are taken to provide for the general security of all personnel involved in hazing, capturing, shooting, or processing bison outside the park. Security of the MDOL west boundary capture site(s) will be the responsibility of MDOL enforcement personnel with the assistance of the cooperating agencies. MDOL and/or the cooperating agencies may contract a security agency to provide general security if necessary. Security for bison management operations inside the park will be the responsibility of NPS.

Maintenance of Records and Accountability for Bison Removal

The NPS will be responsible for the accountability of bison management records for activities inside the park including hazing, capturing, brucellosis testing, brucellosis test results, and brucellosis vaccination. The MDOL will be responsible for the accountability of bison records for bison management activities outside the park including hazing, capturing, slaughter, lethal removal, brucellosis testing, brucellosis test results, and brucellosis vaccination.

Collection and Analysis of Blood and Tissue Samples

The MDOL with the assistance of federal and other state agencies will be responsible for the collection of blood and tissue samples from bison captured outside the park and that are

designated for sampling procedures. Outside the park, MDOL and APHIS will assure that appropriate personnel are on site to accomplish sample collection. Outside the park, the MDOL will be responsible for collection and brucellosis analysis of blood and tissue samples, with assistance from APHIS, United States Geological Service-Biological Resource Division (BRD), NPS and USDA-Agriculture Research Service (ARS). Inside the park, NPS will be responsible for collection of blood and tissue samples and analyses for management purposes. NPS may request assistance of APHIS, BRD, ARS, and MDOL with collection of blood and tissue samples. MDOL, BRD, ARS, NPS, and APHIS will share copies of the results of all analyses.

Hunting Bison

The Montana licensed bison hunt will be applied as an adaptive management strategy and additional IBMP management tool. The bison hunt was reviewed under the Montana Environmental Policy Act (MEPA) through an environmental assessment completed in 2004 by FWP. That assessment tiers off of the IBMP environmental impact statement, where a bison hunt was contemplated. The following are necessary conditions or criteria regarding this adaptive management adjustment to the IBMP Operating Procedures:

1. Hunting will be permitted from November 15 through February 15, when cattle are typically no longer present in the Northern and Western Boundary Areas.

2. Hunting will remain limited to the following areas where and when cattle are typically not present:

    a. Lands defined in the IBMP as "Zone 2" in the West Yellowstone Basin); and
    b. Areas where bison are currently allowed to roam freely (public land with no cattle allotments)
        i. The Cabin Creek Recreation and Wildlife Management Area,
        ii. The Monument Mountain Unit of the Lee Metcalf Wilderness,
        iii. The upper Gallatin River drainage south of the mouth of Taylor Fork,
        iv. The Absaroka-Beartooth Wilderness (including the upper portions of Hellroaring and Sough Creeks), and
        v. The Eagle Creek/Bear Creek region in the northern boundary area up to the Little Trail Creek/Maiden Basin hydrographic divide.

3. During November 15 through February 15, hazing of bison will be suspended outside the park in hunt areas described above, unless hazing becomes necessary to prevent movement of bison into Zone 3, as determined by the state veterinarian. This is to ensure a fair chase hunt. Monitoring of bison abundance distribution and movement in Zone 1 in the West Yellowstone Basin will be conducted by the NPS and in Zone 2 by MDOL (assisted by FWP). MDOL will lead more intensive monitoring, and potentially other management actions, if required because of significant numbers of bison approaching or going beyond Witts Lake Road (North of Hebgen Lake on Hwy. 287), USFS Road 1731

(South of Hebgen Lake near Madison Arm Resort), the upper Gallatin River drainage south of the mouth of Taylor Fork, or the Little Trail Creek/Maiden Basin hydrographic divide. Desired field flexibility will be preserved in the area of Whits Lake Road (north of Hebgen Lake on Highway 287) to avoid the need for immediate cessation of the hunt. This Whits Lake Road area will be monitored, with a particular emphasis on early morning and late afternoon, and personnel will be ready to act to deter bison westward movement or remove bison when necessary.

4. The MFWP Commission will enact 24 hour notice of hunting closure, when determined to be necessary, to implement other management actions such as hazing, capture, or lethal removal. Hazing bison wholly within areas closed to hunting will not require a hunt cessation.

5. MFWP will provide brucellosis sampling kits to hunters as a public service and/or to assist in research for directed studies.

6. MFWP and MDOL will conduct critical evaluation of the bison hunt at conclusion of hunting season and propose necessary adjustments to future bison hunts based on conclusions derived from the evaluation.

Adaptive Management Review, Evaluation, and Modification

These procedures may be modified based on research results. A meeting will be held each year to determine if it is necessary to modify the operating procedures of the previous season to accomplish the objectives of the IBMP. A meeting of the cooperating agencies will be held each year to review, evaluate, and modify, if deemed necessary by the agencies, the operating procedures for accomplishing the objectives of the IBMP. These procedures may be modified at any time, with the agreement of the agencies, to facilitate and/or improve the operations procedures to accomplish the objectives of the IBMP. Additional meetings may be held if deemed necessary.

Attachment 1. Agency resource levels that may be necessary to conduct an array of bison management activities described in the Interagency Bison Management Plan.

Operation Size / Resources	**MDOL**	**MFWP**	**NPS**	**APHIS**	**USFS**
Hazing – Small to Medium (1-25 head)					
Horses & Riders	√	√	√	NA	NA
ATV	√	√	NA	NA	NA
Snowmobile	√	√	√	NA	NA
Law Enforcement Officers	√	√	√	NA	√
Hazing (>25 head)					
Horses & Riders	√	√	√	NA	NA
ATV	√	√	NA	NA	NA
Snowmobile	√	√	√	NA	NA
Law Enforcement Officers	√	√	√	NA	√
Shooting					
Law Enforcement Officers	√	√	√	NA	√
Lethal Control Teams	√	√	√	NA	NA
ATV	√	√	NA	NA	NA
Snowmobile	√	√	√	NA	NA
Tissue sample collector	√	√	√	√	NA
Capture					
Horses & Riders	√	√	√	NA	NA
ATV	√	√	NA	NA	NA
Snowmobile	√	√	√	NA	NA
Law Enforcement Officers	√	√	√	NA	√
Testing Personnel	√	√	√	√	NA
Bison Handlers	√	√	√	NA	NA
Bison Transport to Slaughter	√	√	NA	√	NA
Research and Disease Surveillance					
Personnel	√	√	√	√	NA

Note:

- MDOL may utilize contract haulers for any operation.
- Additional support may be provided by Gallatin County Sheriff Office and Montana Highway Patrol, as requested by MDOL.
- USFS law enforcement personnel will handle property damage and related violations on USFS lands. Upon request from MDOL made through the Park County Sheriff Office, Gallatin County Sheriff Office, USFS law enforcement personnel will provide support for hazing, capture and shooting.
- USFS will continue to assist in monitoring bald eagles and other support services to maintain the Horse Butte SUP.
- Lethal Control Officers will operate in agency teams.
- Authority for NPS personnel to respond to requests for assistance in implementing the IBMP outside the park is guided by US Department of Interior Office of Solicitor opinion.

Interagency Bison Management Plan
OPERATING PROCEDURES
Updated November 1, 2007

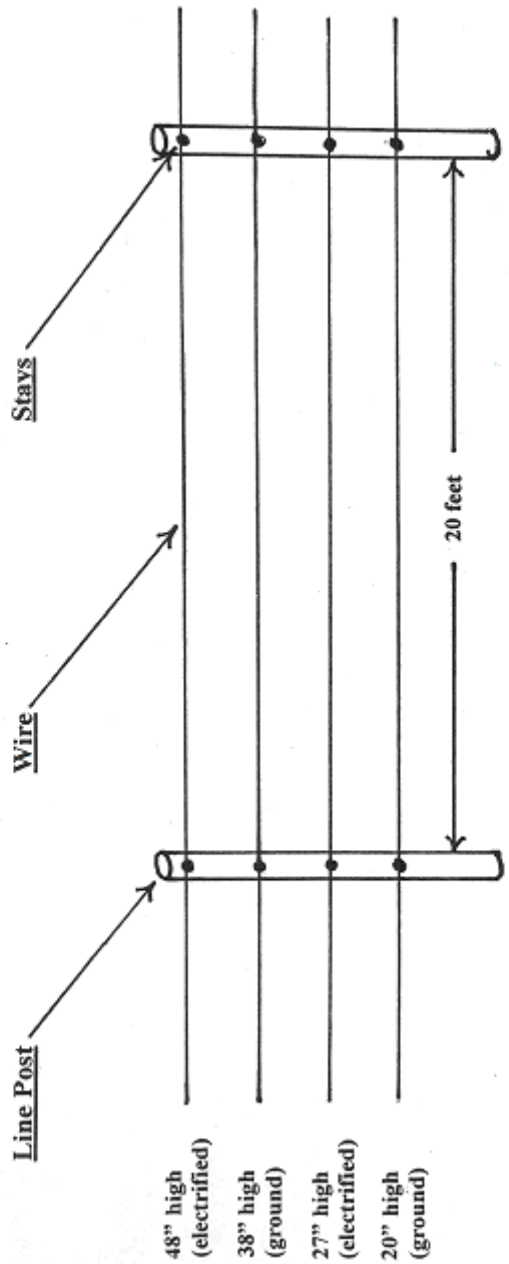
APPROVAL

Signature:	Date:
for Superintendent, Yellowstone National Park	Nov. 19, 2007
Asst. Regional Director, Animal and Plant Health Inspection Service (for Jerry Diemer)	16 Nov 2007
for Forest Supervisor, Gallatin National Forest	16 Nov 07
Special Agent in Charge, Region 1, Forest Service	11/28/07
Executive Officer, Montana Board of Livestock	16 Nov 07
for Director, Montana Fish, Wildlife, & Parks	16 Nov 07

APPENDIX B

Recommended Bison Fence Design

(Not Drawn to Scale)



Line Posts: 8 foot wooden posts, 5 inch tops, spaced 20 feet apart; the spacing and type of post may vary over short distances depending on terrain and fencing needs.

Corner/Brace Posts: (not illustrated) 9 foot wooden posts with 6 inch or larger tops.

Wire: High tensile 12.5 gauge smooth wire.

Stays: Insulated wire stays with drop-down capability.

APPENDIX C
Fence Location Maps

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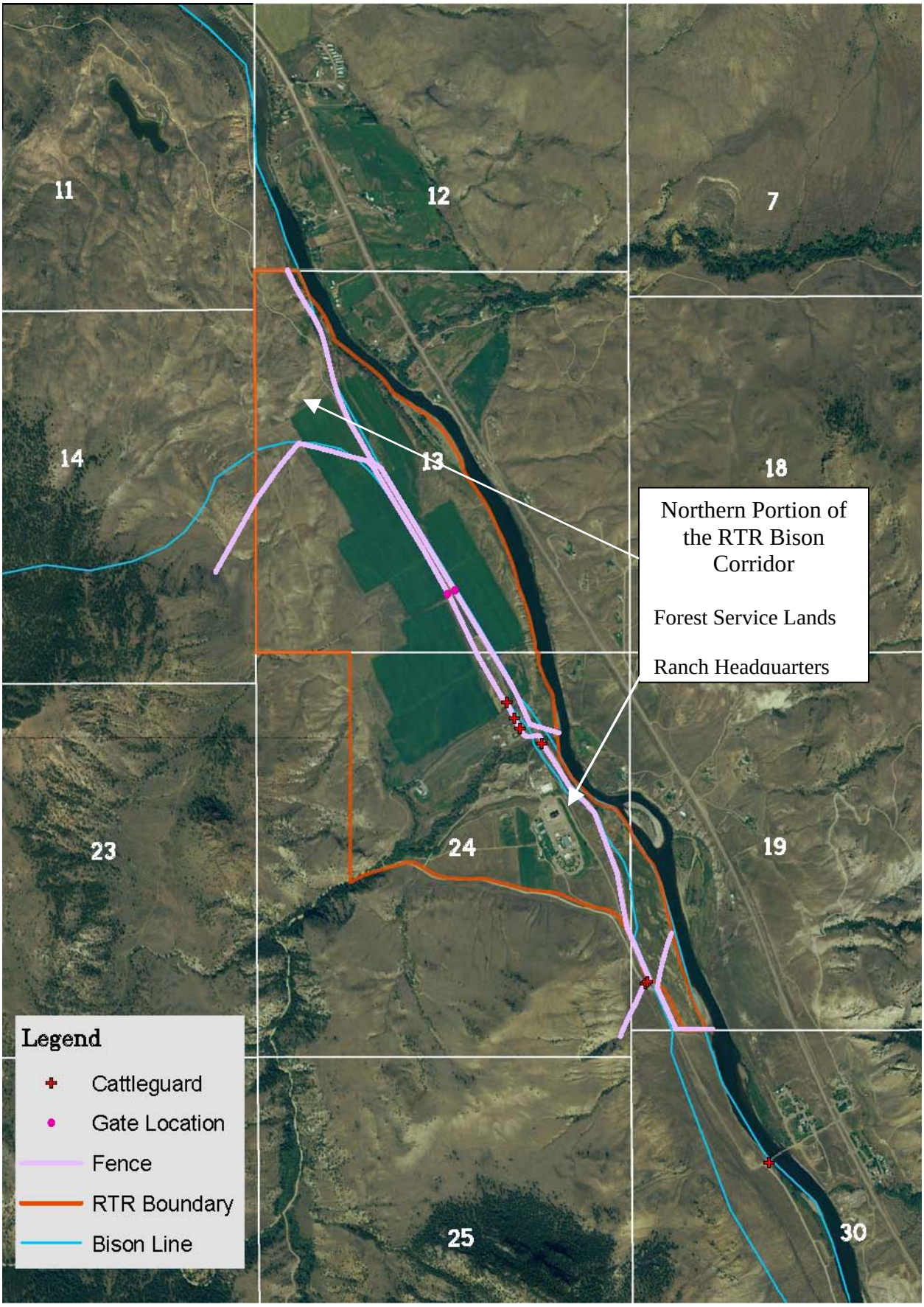
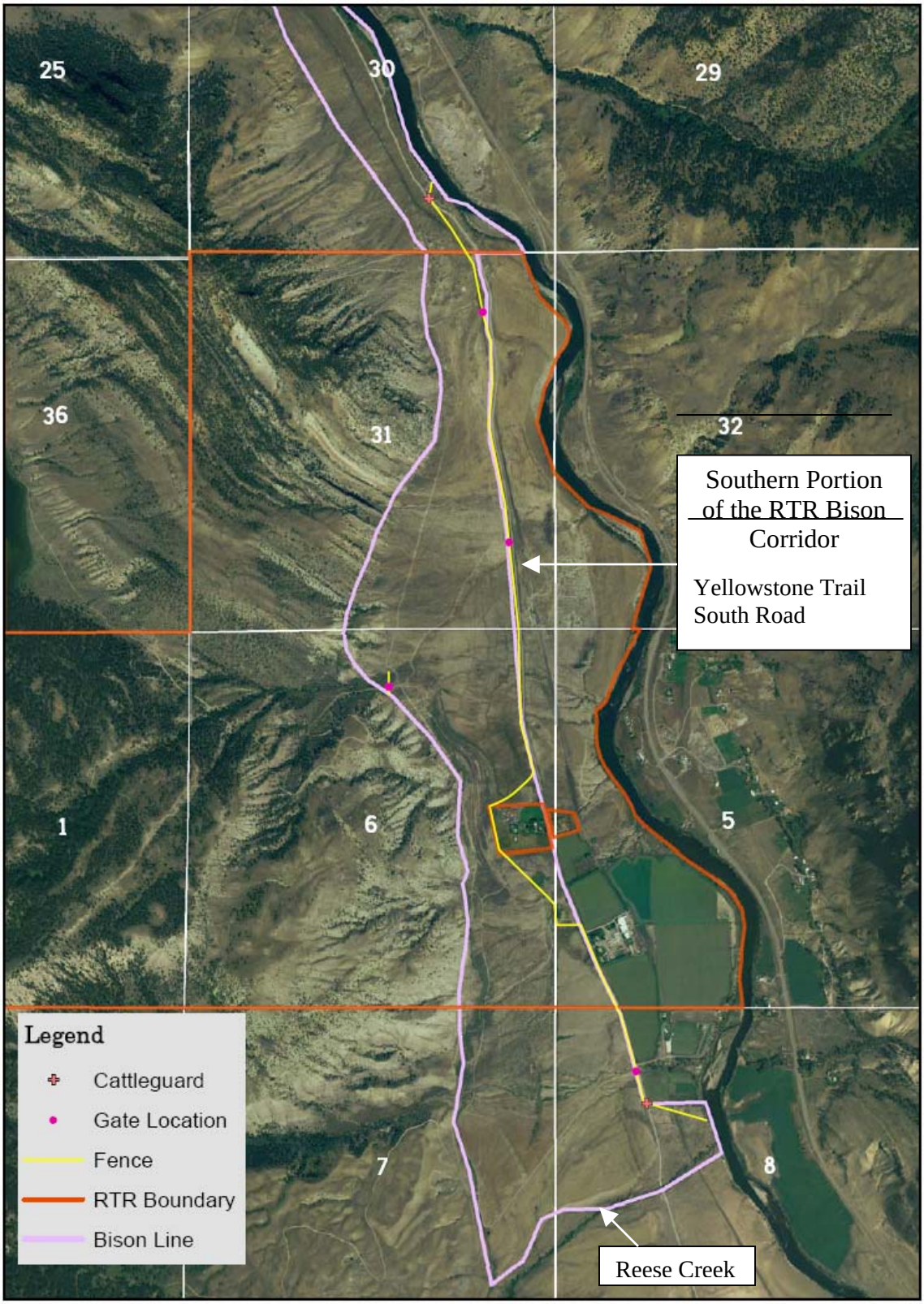

11
12
7
14
13
18
Northern Portion of the RTR Bison Corridor
Forest Service Lands
Ranch Headquarters
23
24
19
25
30
Legend
Cattleguard
Gate Location
Fence
RTR Boundary
Bison Line

APPENDIX C Continued



10/01/07 Draft

GRAZING RESTRICTION AND BISON ACCESS AGREEMENT

This Grazing Restriction and Bison Access Agreement ("Agreement") is entered into this ____ day of _____, 200__, by and between the Montana Department of Fish, Wildlife and Parks (the "Department"), an agency of the State of Montana, whose mailing address is P.O. Box 200701, Helena, Montana 59620, and the Church Universal and Triumphant, Inc. ("Church"), a Montana nonprofit corporation, whose mailing address is 63 Summit Way, Gardiner, Montana 59030.

RECITALS

WHEREAS, the Church is the owner of real property located in Park County, Montana. These lands serve as the geographic center of the Church's spiritual mission, as well as the location for the Church's headquarters, facilities, and business operations. Church lands provide solace to Church members and visitors, and provide habitat for a wide variety of wildlife; and

WHEREAS, Church lands have historically sustained a working cattle operation and have provided forage for up to 2800 AUMs. This cattle operation has continued under Church ownership, providing both income and self-sufficiency to the Church and its members; and

WHEREAS, in entering into this Agreement, the Church will be required to make substantial modifications to its operations, many of which may be costly or impossible to resume; and

WHEREAS, the Department is a party to the Interagency Bison Management Plan, dated December 20, 2000(the "Plan"), which has the goal of maintaining a wild, free-ranging population of bison while controlling the risk of brucellosis transmission from wild bison to domestic cattle in the state of Montana; and

WHEREAS, the Plan calls for a limited number of seronegative bison to be allowed onto private lands outside Yellowstone National Park on the west side of the Yellowstone River, including Church owned lands, once domestic cattle are removed from those lands; and

WHEREAS, consistent with the terms of the Plan, the Department seeks removal of cattle from Church lands on the west side of the Yellowstone River and access to facilitate seasonal movement of wild bison through those Church lands to suitable habitat on public land north of the Church lands; and

WHEREAS, wild bison are large, unpredictable, and potentially dangerous animals, which need to be managed effectively to protect people and property; and

WHEREAS, in addition to providing a corridor for wild bison, Church lands provide important habitat and forage for elk, bighorn sheep, mountain goats, bears, wolves, coyote, deer and other wildlife; and

WHEREAS, a portion of the Church lands are subject to a conservation easement, which restricts development to provide wildlife habitat and protect important conservation values; and

DRAFT

WHEREAS, this Agreement may expand hunting opportunities for bison on public lands, the parties understand that Church lands designated as a bison corridor and bison use areas in this agreement are not suitable for bison hunting; and

WHEREAS, it is difficult to predict the movement of wild bison through Church lands to suitable habitat on public land north of the Church lands. As a consequence, depending on the behavior of the bison and their use of the corridor, the Department's goals and objectives may not be met; and

WHEREAS, consistent with the terms of the Plan, the Parties seek a long-term solution to bison management issues that adequately manages risks to the public and protects private property; and

WHEREAS, the Parties understand that it will take time for bison to establish a use pattern on the landscape and for the Department to establish effective management responses; and

WHEREAS, the Parties intend this Agreement to be part of a long-term solution to bison management issues in the area and desire to cooperatively resolve disputes regarding its implementation.

WHEREFORE, in consideration of the mutual promises made herein, the Department and the Church agree as follows:

SECTION ONE
REMOVAL OF CATTLE, SHEEP AND GOATS ON CHURCH PROPERTY

The Church is the owner of certain real property in Park County, Montana (the "Property"). This Property is more particularly described in Exhibit A and shown on Exhibit B to this Agreement. The Church agrees to cease its current cattle operation and remove all domestic cattle from the Property by a date to be mutually determined by the Parties. The Church shall not graze domestic cattle, domestic sheep or domestic goats, or knowingly allow domestic cattle, domestic sheep or domestic goats to be grazed on the Property during the term of this Agreement. Additionally, during the term of this Agreement, the Church agrees that it will not graze domestic cattle, domestic sheep or domestic goats on any land that is located in Park County west of the Yellowstone River and south of the dividing line between T7S and T8S, Montana Principal Meridian, whether or not such land is owned by the Church.

SECTION TWO
BISON CORRIDOR AND BISON USE AREAS

A. Bison Corridor and Bison Use Areas. On the terms specified hereafter in this Agreement, the Church shall permit bison to move on and through a portion of the Property (the "Bison Corridor"). The location of the Bison Corridor is depicted in Exhibit B to this Agreement. In addition to providing access for movement through the Bison Corridor on the terms specified hereafter, the Church shall allow bison to make use of three separate areas (the "Bison Use Areas") for grazing and temporary use as set out in the Royal Teton Ranch Bison Management Plan attached as Exhibit D to this Agreement. These Bison Use Areas are more

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particularly described in Exhibit B to this Agreement. Subject to the conditions in Sections Four, Five, Six, Seven and Eight of this Agreement, the Church agrees not to prevent bison access to, or use of, the Bison Corridor or Bison Use Areas.

During the term of this Agreement the Church shall not construct within the Bison Corridor (i) any building, or (ii) any other structure that would obstruct bison movement, without the express written permission of the Department. The Department's approval of proposed construction of any building or structure within the Bison Corridor shall not be unreasonably withheld. This provision is intended solely to limit the construction of buildings or structures that would obstruct bison movement through the Bison Corridor. It is not intended to limit, or require Department permission, for the construction of facilities that would not obstruct bison movement, including but not limited to facilities for ingress or egress, placement of utilities or other similar structures intended to serve Church property either inside or outside the Bison Corridor.

Nothing in this Section shall limit or prohibit the Church from making any use of the Bison Corridor or Bison Use Areas otherwise consistent with the terms of this Agreement. Furthermore, nothing in this Agreement shall be construed as granting either the Department or the public any right to use, control, or manage the Property, the Bison Corridor or the Bison Use Areas except as specifically set forth herein.

B. Bison Use Consistent with Conservation Easement. The Parties agree and acknowledge that part of one of the Bison Use Areas is subject to an existing conservation easement, titled Deed of Conservation Easement Royal Teton Ranch – Devil's Slide Area, dated August 30, 1999, to provide habitat for wildlife and to protect important conservation values (the "CE"). The CE has been recorded at Roll 147, Page 947. The Department agrees to ensure that all bison use and management activities shall be consistent with the restrictions and conditions of the CE.

SECTION THREE
DEPARTMENT ACCESS FOR MANAGEMENT ACTIVITIES

A. Management Access. The Church shall allow Department personnel and personnel of other Plan co-signatories reasonable access to the Bison Corridor, Bison Use Areas and the Property as needed to fulfill Department responsibilities under this Agreement, including construction and maintenance of fences and other confinement facilities, monitoring and management of bison, including actions to move or remove bison, inspection for compliance with Section One of this Agreement, and review of range conditions on the Bison Corridor and Bison Use Areas.

B. Prior Notice. The Parties agree and understand that effective implementation of this Agreement will often require coordination and advance notice of management activities. The Department shall provide notice to the Church at least 24 hours in advance of any routine management activity undertaken pursuant to the terms of this Agreement. In emergency situations the Department shall provide notice to the Church as soon as practicable under the circumstances.

C. Limitations. Department and Plan co-signatory personnel shall not enter any buildings on the Property, to enter any gated areas of the Property that contain homes or other

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developments, or to drive off of established roads on the Property without advance permission from the Church.

D. Access for Licensed Montana Hunters. Subject to the conditions set forth in this subsection, the Church shall allow limited access for licensed Montana hunters, and those assisting them with bison retrieval, to use an existing private route near the northern boundary of the northern Bison Use Area, as shown on Exhibit B. Access shall be permitted solely for the purpose of retrieving legally tagged and downed bison on nearby public land. Any licensed Montana hunter wishing to use the route for the specified purpose must check in with a designated Church representative prior to accessing the route. The Department shall be responsible for providing information to hunters concerning the permitted access route and conditions for use. The provisions of this Section notwithstanding, the Church retains the right to limit or restrict use of the route when reasonably required to prevent significant damage to the route or other Church property.

SECTION FOUR
FENCING AND CONFINEMENT FACILITIES

A. Construction and Maintenance of Fences and Facilities. The Department shall construct and maintain fences, cattle guards, confinement facilities, and related structures as necessary to manage bison, route bison through the Bison Corridor, and block bison entry onto the Property outside of the Bison Corridor and Bison Use Areas. Fence and confinement facility locations are shown in Exhibit C. All fences and other facilities shall be constructed, managed and maintained in accordance with the guidelines provided in Exhibit C.

B. Ownership of Improvements. Any fencing or other structure installed for the purposes of this Agreement shall be the property of the Department, and damage to fencing or facilities installed by the Department pursuant to this Agreement by bison shall not constitute damage to private property. Upon termination of this Agreement, ownership of fencing and other structures installed for the purposes of this Agreement shall revert to the Church or its successor unless otherwise agreed to by the Parties in writing.

SECTION FIVE
MONITORING AND MANAGEMENT OF BISON

The Department, in cooperation with the Interagency Bison Management Plan co-signatories, shall monitor bison movement onto and through the Bison Corridor and Bison Use Areas and take appropriate actions to move bison through the Bison Corridor and/or prevent bison entry onto, or use of the Property at times, locations, or in numbers prohibited by the Plan or this Agreement. The Department shall construct, inspect, maintain, and operate all fences and facilities installed pursuant to this Agreement. In addition, as provided for in this Agreement, the Department shall periodically inspect range and soil conditions in the Bison Corridor and Bison Use Areas and consult with the Church on any issues of concern. The monitoring and management activities of the Department and other Plan co-signatories shall conform to a mutually agreed upon Royal Teton Ranch Bison Management Plan (the "RTR Bison Management Plan"), attached to this Agreement as Exhibit D. Modifications to the RTR Bison Management Plan must be in writing and signed by the Parties to this Agreement. The Parties agree that the approval of proposed modifications that are consistent with the Agreement shall not be unreasonably withheld.

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SECTION SIX
SAFETY OF PERSONS AND PROTECTION OF PROPERTY

The safety of Church members and employees, visitors and the general public and the protection of private property are primary concerns of this Agreement. The Department shall take all reasonably appropriate measures, either solely or in cooperation with other agencies participating in the management of the Northern Yellowstone bison herd, to address and alleviate any threats to persons or property posed by the presence of bison on the Property, or bison use of the Bison Corridor and/or Bison Use Areas. Warning signs shall be posted as described in the Fence Management Guidelines, set out in Exhibit C. The Church agrees to inform its employees who work or live on the Property about appropriate behavior in the vicinity of bison, and the potential consequences of interaction with bison.

SECTION SEVEN
PROTECTION OF RANGE CONDITION

The quality and quantity of native vegetation and other range conditions in the Bison Corridor and Bison Use Areas are described in Exhibit E to this Agreement (the "Baseline Conditions"). The Department and the Church shall monitor range conditions within the Bison Corridor and Bison Use Areas and shall identify management actions needed to address any adverse impacts of bison use on Baseline Conditions. Upon its own determination or upon notice by the Church that range conditions in the Bison Use Areas have deteriorated below Baseline Conditions, the Department shall take appropriate action to mitigate bison impacts to range conditions in the Bison Use Areas. Upon mutual written agreement by the Department and the Church, the Department may implement additional range or habitat improvement projects within the Bison Corridor and/or Bison Use Areas.

SECTION EIGHT
CONSISTENCY WITH THE PLAN

A. Consistency with Plan. Nothing is this Agreement shall be construed to alter the terms of the Plan. Unless and except as otherwise agreed by the parties in an Amendment to this Agreement as provided in subsection B of Section Eight, the Department shall ensure that bison use of the Bison Corridor and Bison Use Areas is consistent with the material terms of the Plan as it exists at the time this Agreement is executed. These material terms are summarized in Exhibit F to this Agreement.

B. Modification of the Plan. The Department and the Church recognize that implementation of or changes to the Plan may result in material terms that differ from those described in Exhibit F to this Agreement. In the event of a modification to the Plan a decision to move to Step Three of the Plan, or a decision to increase the number and timing of bison allowed outside Yellowstone National Park in Step Three, the Church agrees to consider corresponding amendments to this Agreement, including amendment of the terms and limitations set out in Exhibit F. Any such amendment may only occur if (i) experience shows that the Department is able to consistently and effectively contain bison within the Bison Corridor and Bison Use Areas and that bison are not adversely impacting public safety, private property or habitat conditions, (ii) the Department shows that if the proposed amendment is implemented the Department will be able to consistently and effectively contain bison within the Bison Corridor and Bison Use

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Areas and that bison will not adversely impact public safety, private property or habitat conditions, and (iii) the proposed amendment is consistent with the terms of the CE. Amendments must be in writing and signed by both Parties to this Agreement. The Church's approval of such amendment shall not be unreasonably withheld.

SECTION NINE
TERM OF AGREEMENT

The term of this Agreement shall be thirty (30) years from the Effective Date unless terminated earlier as provided for in this Agreement.

SECTION TEN
PAYMENT

A. Initial Payment. The Department shall pay the Church the sum of One Million Eight Hundred Thousand Dollars ($1,800,000.00). This sum is due and payable upon the Effective Date of this Agreement.

B. Annual Payment. In addition to the initial payment, the Department shall pay to the Church an Annual Payment of Seventy Six Thousand Five Hundred Dollars ($76,500.00) for 20 years. The Annual Payment for the first year of the Agreement shall be due on the Effective Date. Annual Payments after the first shall be due on the anniversary of the Effective Date for the applicable year.

SECTION ELEVEN
NONASSIGNABILITY

Neither Party may assign its rights nor delegate its duties under this Agreement without the express written consent of the other.

SECTION TWELVE
ANNUAL REVIEW

Representatives of the Department shall initiate a meeting with the Church once a year to review issues concerning the administration of the Agreement and the management of bison on the Bison Corridor and Bison Use Areas. This meeting shall be held in the fall at a time and place mutually agreed upon by the Parties.

SECTION THIRTEEN
EMERGENCY ACTIONS

If a Party becomes aware of an actual or imminent threat of harm or injury to persons or property from bison on the Property, as soon as reasonably practicable that Party shall notify the other by phone as to the circumstances of the nature of the actual or imminent harm. Upon becoming aware of the actual or imminent harm, the Department shall take appropriate actions to address the harm or prevent or mitigate the threat of harm as soon as reasonably practicable. The provisions of this Section do not limit the Church's right to immediately take whatever steps it deems reasonably necessary to take to protect the safety of its members, employees, visitors, or the public, or to protect its property.

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SECTION FOURTEEN
DISPUTES

A. Purpose. The purpose of the dispute resolution procedures of this Agreement shall be to (i) encourage discussion between the Parties; (ii) assist the Parties in the development and exchange of pertinent information concerning issues in dispute, and; (iii) assist the Parties in development of proposals which comply with the intent of this Agreement and which will enable them to arrive at a mutually acceptable resolution of the dispute in a timely manner.

B. Applicability. Except as otherwise provided in this Agreement, the Parties agree to submit disputes to Dispute Resolution and Mediation as defined in Section Fourteen. Provided, however, that notwithstanding the Dispute Resolution and Mediation provisions of this Section Fourteen, the Church or the Department may seek injunctive relief at any time prior to or while engaging in Dispute Resolution or Mediation.

C. Dispute Resolution. Upon notice given pursuant to Section Twenty of this Agreement that a dispute exists between the Parties regarding any obligation under this Agreement, the Parties agree to make a good faith effort to resolve the dispute themselves. If agreement cannot be reached within thirty (30) days, the Parties shall submit the dispute to mediation, as set forth in subsections D and E this Section.

D. Selection of Mediator and Timing of Mediation. The Parties shall mutually select the mediator from a list of three candidates submitted by each. If the Parties are unable to mutually select a mediator, each Party shall identify two individuals who will select the mediator from a list of three proposed candidates submitted by each Party. The Parties shall select a mediator within thirty (30) days of the original notification of a dispute and complete the mediation within one hundred twenty (120) days of the original notification of the dispute. Each Party shall be responsible for its own attorney's fees and costs associated with mediation. Each Party shall be responsible for one-half of any fees charged by the mediator.

E. Mediation Procedures. The mediator may meet with the Parties and their counsel jointly or ex parte. The Parties agree that they will participate in the mediation in good faith and expeditiously. Representatives of the Parties with settlement authority will attend mediation sessions, as required by the mediator. All information presented to the mediator shall be deemed confidential while the dispute is being mediated and to the extent allowed by law and shall be disclosed by the mediator only with the consent of the Parties or their respective counsel. The mediator shall not be subject to subpoena by any Party. No statements made or documents prepared for mediation shall be construed as an admission by the Party or disclosed in any subsequent proceeding, unless the preparing Party agrees to such disclosure.

F. Other Actions. If mediation is not successful, the Church or the Department may pursue other contractual or judicial actions to resolve the dispute.

G. Cumulative Remedies. The remedies of the Parties set forth in this Agreement are cumulative. Any or all of the remedies may be invoked by the Church or the Department if there is an actual or potential violation, breach, or failure to perform of this Agreement.

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H. Delay in Enforcement. A delay in enforcement shall not be construed as a waiver of either Party's right to enforce the terms of this Agreement.

SECTION FIFTEEN
MATERIAL BREACH

In the event of a material breach of this Agreement, the Parties agree to engage in the Dispute Resolution and Mediation procedures in Section Fourteen of this Agreement. The remedies for a material breach of this Agreement include termination of the Agreement. For the purposes of this Section, material breach of the Agreement includes, but is not limited to:

1. The Department's failure to perform its obligations under this Agreement negatively impacts the conservation values of the CE lands, causing a breach of the Church's obligations under the CE;

2. Over the course of any five (5) year period, the Department's failure to consistently prevent bison from entering onto portions of the Property lying outside the Bison Corridor;

3. Following the first day of the sixth (6th) year of this Agreement, in each year over the course of any three (3) year period, the Department's failure to manage bison in a manner consistent with the material terms of the Plan as set out in Exhibit F to this Agreement, or as modified under Section Eight (B);

4. The Department's failure to make any payment due under this Agreement within sixty (60) days of its due date;

5. The Church develops buildings or structures without written permission of the Department that obstruct bison movement through the Bison Corridor.

SECTION SIXTEEN
TERMINATION

A. Mutual Termination. This Agreement may be terminated by mutual agreement of the Parties at any time prior to the expiration of its full term.

B. Termination by the Church. Upon ten (10) days notice to the Department, the Church may terminate this Agreement at any time prior to the expiration of its term if bison use results in injuries or consistent imminent threats of injuries to Church members, its employees or visitors and the Department fails to undertake the actions required by Sections Six and Thirteen of this Agreement.

C. Termination by the Department. Upon ten (10) days notice to the Church, the Department may terminate this Agreement prior to the expiration of its term if no bison use the Bison Use Areas or the Bison Corridor to reach public land to the north of the Property for any consecutive six (6) year period during the term of this Agreement and the non-use is not the result of actions caused or undertaken or conditions created by the co-signatories to the Plan.

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D. Effect of Termination on Annual Payment. Termination of this Agreement at any time after the Effective Date shall terminate the Department's obligation to make further Annual Payments following the termination.

E. Effect of Termination on Initial Payment. In the event that this Agreement is terminated in the nine (9) years following the Effective Date (i) by mutual agreement of the Parties pursuant to Section Sixteen A of this Agreement, or (ii) because of a material breach of the Agreement by the Church for which termination is an appropriate remedy, or (iii) because bison have not used the Bison Use Areas or the Bison Corridor for a period of six (6) consecutive years to reach public land to the north of the Property and the non-use is not the result of actions caused or undertaken or conditions created by the co-signatories to the Plan, then, and only then, the Church shall refund a portion of the Initial Payment to the Department ("Potential Refund"). The Potential Refund will be determined based on the following schedule:

Termination for (i) (ii) or (iii) occurs:	Amount of Potential Refund
0-12 months following the Effective Date	$900,000.00
13-24 months following the Effective Date	$800,000.00
25-36 months following the Effective Date	$700,000.00
37-48 months following the Effective Date	$600,000.00
49-60 months following the Effective Date	$500,000.00
61-72 months following the Effective Date	$400,000.00
73-84 months following the Effective Date	$300,000.00
85-96 months following the Effective Date	$200,000.00
97-108 months following the Effective Date	$100,000.00
Thereafter	$ -0-

Beginning on the 2nd anniversary of the Effective Date and continuing on each subsequent anniversary date up to and including the 8th anniversary of the Effective Date, the Church shall provide a certification to the Department that shows that, in the event it is required to make a refund payment to the Department according to the terms in this Section 16, the Church has readily available funds to make such payment.

SECTION SEVENTEEN
CONDITIONS BINDING ON SUCESSORS

If during the term of the Agreement, the Church sells, grants, transfers, leases, rents, or otherwise conveys on a temporary or permanent basis any portion of the Property to any individual, corporation, or other entity, the land conveyed shall remain subject to the terms of this Agreement. The Church shall give notice to the Department of any conveyance not less than thirty (30) days prior to the execution of any conveyance to a non-affiliate entity.

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SECTION EIGHTEEN
INDEMNIFICATION

The Department shall hold harmless, indemnify and defend the Church and its employees, agents, and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including without limitation reasonable attorney's fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any negligent or willful act or omission of the Department, its employees, agents, or contractors. Nothing in this provision shall be construed to require the Department to hold harmless, indemnify or defend any individual for any liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments arising from or in any way connected with injury to or the death of any person, or physical damage to any property, that is a result of any negligent or willful act or omission of the Church, its employees, agents, or contractors.

SECTION NINETEEN
SEVERABILITY

It is understood and agreed that if any term or provision of this Agreement is held to be illegal, void, or in conflict with any Montana law, the validity of the remaining terms and conditions shall not be affected. The rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term, condition, or provision held to be invalid.

SECTION TWENTY
NOTICE

Any notice, demand or request for approval required or permitted to be given under this Agreement must be in writing. Written notice shall be deemed given when such is delivered by hand, courier, or mail to the recipient, and the sender shall secure and retain a written receipt documenting the delivery date.

The Church's representative and address for the purpose of receiving notice is: _____, 63 Summit Way, Gardiner, Montana 59030. The Church's phone number is (406) _____. The Department's representative and address for the purpose of receiving notice is: Pat Flowers, Region 3 Supervisor, Montana Fish, Wildlife and Parks, 1400 S. 19th Avenue, Bozeman, Montana 59715. The Department's phone number is (406) 994-4042.

If either Party changes its address, phone number or contact person, it shall notify the other Party in writing at the address provided in this Section.

SECTION TWENTY ONE
RECORDING

The Department shall record this Agreement in the official records of Park County.

SECTION TWENTY TWO

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VENUE AND CONTROLLING LAW

The Church and the Department agree that this Agreement shall be governed and interpreted according to the laws of the State of Montana. In the event of a dispute arising over this Agreement, the proper venue for the hearing of the case is the District Court of the First Judicial District of the State of Montana, in and for the County of Lewis and Clark.

SECTION TWENTY THREE
SUCCESSORS

All rights and liabilities herein given to or imposed upon both Parties shall extend to, be binding upon, and inure to the benefit of the Parties hereto and their respective successors and assigns.

SECTION TWENTY FOUR
ATTORNEY'S FEES

If any action is brought to enforce the terms of this Agreement, the prevailing Party shall be entitled to an award of its costs and reasonable attorney's fees.

SECTION TWENTY FIVE
ENTIRE AGREEMENT

This Agreement represents the entire contract between the Church and the Department. Any agreement hereafter made shall not be effective to modify this Agreement unless it is in writing and signed by both Parties.

SECTION TWENTY SIX
EFFECTIVE DATE

This Agreement shall become effective on the last date signed below ("Effective Date").

SECTION TWENTY SEVEN
AGENCIES' APPROVAL

The Department has reviewed this Agreement with all of the agencies responsible for implementing the Plan and has received approval from each agency to implement the RTR Bison Management Plan.

IN WITNESS WHEREOF, the CHURCH and the DEPARTMENT have entered into and executed this Agreement.

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CHURCH UNIVERSAL AND TRIUMPHANT, INC.

By:_____
Title:_____
Dated:_____

MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

By:_____
Title: Director
Dated:_____

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STATE OF MONTANA)
:ss.
County of _____)

This instrument was acknowledged before me on the __ day of _____, 2007, by _____ the _____ of Church Universal and Triumphant, Inc.

_____
Printed Name:_____
(Seal) Notary Public for the State of Montana
Residing at _____
My Commission expires: _____ 200__

STATE OF MONTANA)
:ss.
County of _____)

This instrument was acknowledged before me on the __ day of _____, 2007, by _____ the _____ of the Montana Department of Fish, Wildlife and Parks.

_____
Printed Name:_____
(Seal) Notary Public for the State of Montana
Residing at _____
My Commission expires: _____ 200__

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Exhibit A – Description of the Property

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Exhibit B – Map of the Property, Description of Bison Corridor, and Description of Bison Use Areas

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Exhibit C –Fence Locations and Fence Management Guidelines

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Exhibit D – Royal Teton Ranch Bison Management Plan

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Exhibit E – Range Baseline Conditions

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Exhibit F – Material Terms of the Plan

1. Bison attempting to leave the Yellowstone National Park shall be captured and tested at the Stephens Creek capture facility. In Steps One and Two of the Plan, only seronegative bison will be allowed to roam outside Yellowstone National Park. In Step Three of the Plan, untested bison may be allowed to roam outside Yellowstone National Park.

2. During the first year after cattle are removed from the Royal Teton Ranch, the number of seronegative bison released in Zone 2 will not exceed 25. After gaining sufficient experience in successfully managing approximately 25 bison outside Yellowstone National Park, the number of seronegative bison released into Zone 2 will increase to a maximum of 50. After gaining sufficient experience in successfully managing approximately 50 bison outside Yellowstone National Park, the number of seronegative bison released into Zone 2 may increase to a maximum of 100.

3. After the applicable maximum limits are met, further movement of bison outside Yellowstone National Park in Zone 2 will be prevented, either by hazing, capture at the Stephens Creek facility or lethal removal. Lethal removal will not occur on Church property without the Church's prior written permission.

4. All bison outside Yellowstone National Park in Zone 2 will be removed to quarantine or slaughter or returned to the Park no later than April 15 of each year. All bison that cross the Yellowstone River to the east of Zone 2 will be subject to hazing, capture or lethal removal.

5. The Church will be consulted on the location of any new capture facility to be built on or near the northern boundary of Zone 2.

6. Seronegative pregnant bison will be equipped with telemetric collars and vaginal transmitters.

7. In the event that a brucellosis infection occurs in the northern boundary area and is traced back to the bison from Yellowstone National Park, only tested seronegative, non-pregnant bison will be allowed to use the Bison Corridor and Bison Use Areas.

8. The northern boundary area will be continually monitored from November through April.

9. Capture of bison at the Stephens Creek capture facility will continue under all steps of bison management in the Reese Creek area. During Step 3, the Stephens Creek capture facility would be operated primarily for the purpose of limiting the number of bison in Zone 2 to the tolerance limit.

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