

Via Facsimile

November 2, 1998

Ms. Sarah Bransom  
Bison Management Plan EIS Team  
National Park Service  
DSC-RP  
P.O. Box 25287  
Denver, CO 80225-0287

Dear Ms. Bransom:

Defenders of Wildlife submits the following comments on the Draft Environmental Impact Statement for the Interagency Bison Management Plan for the State of Montana and Yellowstone National Park on behalf of our more than 270,000 members and supporters. As a non-profit conservation organization focused on conserving wildlife, their habitat and the ecosystems on which they depend, Defenders has a special interest in the long-term management of Yellowstone's bison herd. Inappropriate resolution of the bison-brucellosis (*Brucella abortus*) conflict has the potential to not only negatively impact the free-ranging nature of bison but could also directly impact the future viability of several threatened and endangered species which inhabit the Greater Yellowstone Ecosystem. Furthermore, unfavorable resolution could establish undesirable wildlife and ecosystem management precedents.

After reviewing the alternatives offered in the DEIS, many wildlife conservation organizations determined that none offered an appropriate management strategy for the long-term management of Yellowstone's bison herd. For this reason, a coalition was formed with the intent of developing a more balanced plan that would protect the integrity of Yellowstone's free-roaming bison and would preserve Montana's brucellosis-free status. The coalition is comprised of the local, regional and national wildlife conservation organizations which have most closely monitored the Yellowstone bison-brucellosis conflict over the past three decades. Collectively, the coalition consist of individuals with decades of experience in wildlife management and policy. The coalition's plan, The Citizens' Plan to Save Yellowstone Buffalo, is now endorsed by more than 15 organizations with a combined membership of more than 5 million. Several regional businesses and ranchers have also endorsed the plan.

Our comments are divided into two sections: 1) general comments on the DEIS as a whole and 2) the need for a Citizen's Plan. The Citizens' Plan represents Defenders' basic position on the future management of Yellowstone's bison herd and is therefore attached as a part of our comments. Additional comments are intended to provide further details to certain components of the Citizens' Plan as well as to provide specific comments on the DEIS and its alternatives.

## **A. General Comments:**

The following comments pertain to the DEIS as a whole:

### **1. The scoping process and opportunities for public comment have been inadequate.**

One of our primary concerns with the DEIS surrounds the issue of scoping. We question whether appropriate scoping of this issue was ever adequately undertaken. Based on information provided in the DEIS on page 35, scoping on the management of the Yellowstone bison herd began in 1990 when the National Park Service (NPS), the U.S. Forest Service (USFS) and Montana's Department of Fish, Wildlife and Parks initiated the process of preparing an environmental impact statement for an interagency bison management plan. The first public documents emerging from this process asked for comments on predetermined alternatives rather than asking the public to identify its potential alternatives. Likewise, initial public hearings dealing with management of one of the most emblematic species residing in one of the most visited parks in America were limited to the local communities immediately adjacent to the park. Initially, no efforts were made to include park visitors or the general public as stakeholders in this process which deals with a situation almost exclusively on federal lands.

According to a letter summarizing a January 10, 1994 meeting of federal officials from the U.S. Department of Agriculture (USDA) and the Department of the Interior (DOI), these officials "agreed to develop a cooperative Federal Strategy to resolve longstanding issues surrounding the bison herds located in and around Yellowstone National Park." These officials also agreed to several goals including the elimination of brucellosis from the Yellowstone ecosystem. From this letter, it is clear that the involved federal agencies had adopted certain positions regarding goals, philosophies and management actions without the benefit of any legitimate national scoping process. Interestingly, the decision by these federal agencies to commit to the goal of eliminating brucellosis from the Yellowstone ecosystem came three years prior to Secretary Babbitt's request to the National Academy of Sciences (NAS) to undertake a formal, 6-month study due to the disagreement over whether brucellosis transmission by bison or elk was a threat to domestic livestock and whether vaccination or other management strategies might prove useful in controlling potential transmission.

More recently, in response to a 1995 lawsuit, the federal government agreed to a settlement in the absence of any public comment. The court settlement has forced the NPS's to forsake its statutory mandate of natural regulation as it pertains to bison, and in essence, the NPS now serves as an extension of APHIS and the Montana Department of Livestock (DOL). This is poignantly demonstrated in the interagency draft EA for the 1996 Interim Plan which analyzed only two alternatives: Alternative 1, which was later adopted with only slight modifications as the Interim Plan; and Alternative 2, the "no action" alternative which merely described the existing bison management scheme that Montana had challenged in the 1995 lawsuit. Because the parties had committed to implementing a new interim plan, the EA, in effect, presented the public with only one choice, Alternative 1 -- a plan which resulted in the capture, testing and slaughter of 1,084 bison in its first year of operation -- many of which were killed by NPS personnel.

The comment period for the draft EA for the interim plan was also extremely short due to the time line agreed to in the 1995 settlement. The original public comment period was just 30 days. Only at the request of interested parties was the comment period extended by two weeks for a total of 33 days. This is hardly appropriate for an issue of national scope. In June of 1998, when the DEIS was released, the drafting team proposed only regional hearings around Yellowstone National Park. Because of the objections of the conservation community, the drafting team consented to additional hearings in several major cities around the country.

Clearly, the opportunities for public involvement have been intentionally restricted to local input from user groups, when allowed at all. The poorly conducted scoping process and the 1995 out of court settlement have resulted in a series of inadequate interim management plans and now in this flawed DEIS. Important decisions such as these involving lands or wildlife held in the public trust should all be made in the full view of the public. NEPA requires nothing less, in terms of the alternatives offered and the impacts assessed.

**2. The interagency drafting team failed to incorporate important research findings. Substantive changes must be made in the final EIS in order to incorporate important findings of the NAS study.**

In 1997, the Secretary of the Interior commissioned the NAS to undertake a 6-month study of brucellosis in the Greater Yellowstone Area (GYA). A final report was released on July 15, 1998. The DEIS was released in June. The DEIS states that the agencies have not referenced or cited the National Academy of Sciences report “because it is in preliminary form.” Defenders finds it troubling that the DEIS, which took more than 8 years to produce and was already a year and a half overdue according to the time line agreed to in the settlement agreement, was published just weeks before the final NAS report was released.

The NAS report was to analyze the extent of bison infection with brucellosis in the GYA; the transmission of *B. abortus* among cattle, bison, elk, and other wildlife species; the relationship, if any, between bison population dynamics and brucellosis; the ability of serology testing to estimate the true prevalence of infection; the efficacy and safety of existing vaccines for target and nontarget species and the need for new (including bison-specific) vaccines; the nature and likely successes or limitations of a wild animal vaccination program; and factors in reducing risk of transmission from wildlife to cattle and among cattle -- all key issues relevant to the development of a successful, long-term management plan. It seems logical that the drafting team would recognize the benefits of delaying the release of the DEIS or would have at least sought court permission to delay the release in order to incorporate the findings of the NAS study. We strongly encourage the interagency drafting team to follow through with its commitment to review and utilize the NAS report. Incorporation of the report will also enhance the final document’s scientific foundation and credibility.

In regards to the risk of transmission, we believe the following findings from the NAS report are of significance:

- Finding: The risk of bison or elk transmitting brucellosis to cattle is small, but it is not zero.
- Finding: If infection rates are not substantially reduced in elk, reinfection of bison is inevitable.
- Finding: *B. abortus* is unlikely to be maintained in elk if the elk-winter-feeding grounds were closed.
- Finding: Brucellosis is not a major factor in herd survival for elk or bison; among natural variables, winter mortality is the most important.
- Finding: Bison leave YNP as a result of an increasing population and harsh winter weather, and under current management practices within the boundaries of YNP, the bison population will continue to grow.

In regards to reducing the risk of transmission, the following recommendations from the NAS study should be incorporated:

- Recommendation: USDA and DOI should develop a plan to maintain a series of YNP perimeter zones with progressively increasing disease surveillance, vigorous monitoring, vaccination, and contact-reporting programs as one nears the park. The boundaries of the zones should be determined jointly by USDA, DOI, and the states surrounding YNP. The plan should remain in place until brucellosis is eliminated from YNP. It is important that a team of scientists be involved in this program and that results be analyzed and published in a refereed scientific journal.
- Recommendation: A long-term, controlled vaccination study must be conducted to assess the complete role of vaccination in brucellosis control and eradication for bison and elk.
- Recommendation: Any vaccination program for bison must be accompanied by a concomitant program for elk.
- Recommendation: A brucellosis program for wildlife in the GYA should be approached in an adaptive management framework.
- Recommendation: Clear short-term strategies to arrive at long-term goals must be defined and agreed upon by the federal and state entities that are involved in GYA management.
- Recommendation: Research priorities with sufficient funding need to be determined cooperatively and with the support of the secretaries of the DOI and USDA.

**3. Objective #4 (Commit to the eventual elimination of brucellosis in bison and other wildlife) is an inappropriate objective.**

Defenders believes that the fatal flaw of the DEIS is the drafting team's unrealistic commitment to the eventual elimination of brucellosis not only in bison but in all wildlife (Objective 4: Commit to the eventual elimination of brucellosis in bison and other wildlife). This objective is troubling for several reasons: current scientific evidence does not warrant eradication; there is no legal requirement to eradicate the disease in wildlife; and attempting eradication is not within the purported scope of the DEIS.

Furthermore, inclusion of this objective produces inconsistencies in the DEIS. In one section, the DEIS asserts "the elimination of brucellosis, even in bison, is not within the scope of this management plan" yet objective 4 is used to evaluate each of the alternatives. Later in another section, the DEIS states that it can only address brucellosis within bison.

Objective 4 should be deleted from consideration in the final EIS and should be replaced with an objective that more realistically reflects what is scientifically acceptable and achievable as well as legally defensible.

**4. The risk of transmission of brucellosis between bison and cattle in poorly explained and is not scientifically-based. The evidence that bison can or will transmit brucellosis in natural settings is not scientifically compelling.**

The section of the DEIS devoted to an overall discussion of brucellosis is vague and lacks scientific references. The basis for the information provided in this section is the 1997 Greater Yellowstone Interagency Brucellosis Committee (GYIBC) paper entitled "Brucellosis in the Greater Yellowstone Area" which summarizes some of the information about brucellosis as it might relate to management of bison and elk. The drafting team believes that this paper represents the factual information for which there is general agreement among the technical experts. Because it serves as the source of much of the information presented in the DEIS, Defenders believes that this paper should have been included as an appendix in the DEIS so it could be evaluated along with the DEIS.

Based on a thorough review of the scientific literature and the GYIBC paper, Defenders' scientific staff remains entirely unconvinced that Yellowstone bison pose a significant brucellosis transmittal threat to cattle in Montana -- a view shared by many experts in this field. The fact that there has never been a single documented case of free-ranging bison transmitting brucellosis to cattle is continually dismissed.

Like the draft EA, the DEIS presents weak arguments to justify their claims of risk. For example, on page 19 in the "Risk of Transmission" section, the DEIS states "Most of the knowledge regarding brucellosis has been developed from studying the disease in cattle and captive bison, although a limited amount of information has been developed from controlled and field studies of

brucellosis in bison.” The GYIBC paper, which was published in May of 1997, states that “there have been no controlled field studies, specific to the GYA, to determine either the mechanism of *B. abortus* transmission from bison and elk to livestock or the frequency of brucellosis-induced abortions.” Clearly a sound scientific foundation to the DEIS is lacking. It appears that the DEIS, like the draft EA for the interim plan, is justifying this entire action by relying on a single study which was not conducted in the field nor did it mimic field conditions (Davis et al. 1990., J. Wildlife Diseases). Moreover, the study was conducted at an agricultural university facility with decided biases towards the livestock industry.

A significant area where the NAS study and the DEIS differ is the NAS’s recommendation that a brucellosis program for wildlife in the GYA should be approached in an adaptive management framework where management and research are combined so that projects are specifically designed to reveal causal relationships between interventions and outcomes. Defenders agrees that any proposed management plan undertaken at this time should be limited to an adaptive management approach which incorporates an objective of minimizing risk transmission rather than attempts to achieve eradication.

#### **5. Montana’s fear that APHIS will revoke its brucellosis-free status is unfounded and exaggerated.**

Any threat that APHIS will revoke the brucellosis-free status of Montana because of bison is groundless because APHIS’s policies and regulations apply only to livestock and inapplicable to wildlife. See Parker Land and Cattle Co. V. United States, 796 F. Supp. 477, 486 (D.Wy. 1992). APHIS does not have the statutory power to revoke Montana’s brucellosis-free status because of the presence of Yellowstone bison in the state. Even in the unlikely event that APHIS tries to exceed its regulatory powers by revoking Montana’s brucellosis-free status, the impact to Montana would be insignificant. In granting Montana its brucellosis-free status, APHIS declared repeatedly that “the challenges in brucellosis status...will not affect marketing patterns and will not have a significant impact on those persons affected by this document.” 49 Fed. Reg. 3,978 (February 1, 1984), 50 Fed Reg. 10,493 (March 15, 1984), 50 Fed Reg. 23,939 (June 7, 1985) (granting brucellosis-free status to remaining counties and making identical insignificant impact findings). Montana’s alleged fear that APHIS will revoke the entire state’s brucellosis-free status is entirely unwarranted because APHIS is fully capable of reclassifying limited portions of a state and is not required to reclassify all of Montana because of a perceived problem in one small portion of a state that holds a tiny fraction of the state’s cattle. When APHIS reclassified Montana as a brucellosis-free state in the mid-1980s, it did so on a county-by-county basis rather than reclassifying the entire state at once. See 49 Fed. Reg. 3,978 (February 1, 1984); 49 Fed Reg. 45,111 (November 15, 1984), 50 Fed. Reg. 10,493 (March 15, 1985), 50 Fed. Reg. 23,939 (June 7, 1985). Montana’s fear that APHIS will revoke its brucellosis-free status is unfounded and, as APHIS’s own analyses indicate, overblown.

#### **6. The DEIS inappropriately allows the state of Montana to determine the definition of**

## **low-risk bison.**

The DEIS allows Montana to reserve “the right to identify bison with a lower possibility of transmission according to such criteria as the state veterinarian and the Board of Livestock deem necessary to prevent brucellosis transmission from bison to cattle and to prevent import sanctions on Montana cattle by other states.” Given that the former state veterinarian has actively lobbied other states to make this a needlessly controversial issue and that the primary concern of the Montana Department of Livestock is cattle and not free-roaming bison, we strongly oppose this provision. The State failed to adopt APHIS’s low-risk definition during the winter of 1996/97 despite the fact by the time APHIS issued the definition hundreds of bison had already been killed. After the definition was released, the DOL continued to unnecessarily kill bison bulls, yearlings, and calves and postparturient female bison. In fact, this very point is the open door by which Montana has abused its regulatory powers and now inappropriately influences wildlife management policies inside YNP, on adjacent public lands and other wild lands.

## **7. Lead agencies failed to conduct or complete necessary research in key areas.**

The NEPA process was officially initiated in 1990 yet eight years later key critical studies that are instrumental in assessing the risk of disease transmission and in developing appropriate management strategies remain either uninitiated or incomplete. The National Academy of Sciences study states, “Current research and funding cannot be relied upon to sustain any long-term program effectively. As is evident from the science reviewed for this report, studies have been characterized by stop-and-go funding and elusive goals. Sample sizes have been inadequate and studies have been of insufficient duration.” Consequently, the DEIS is not based on a strong scientific foundation and many of the management actions proposed in the various alternatives are not scientifically justifiable from a wildlife management perspective. They are based on unfounded fears and are promoted as necessary by biased parties which have no real interest in maintaining the free-roaming nature of Yellowstone’s bison herd.

The table found in Appendix D, Draft Brucellosis/Bison/Elk Information Needs and Research Topics, lends credence to the belief that simply not enough is known about the disease in bison. Of the 42 research needs and studies concerning brucellosis, 22 are classified as high priority. Of the 22 classified as high priority, 8 are classified as ongoing, 2 as proposed, 4 as proposed/ongoing and 8 as no action. Interestingly, one of the most relevant research needs, summarized as “Modes and risk of transmission under free-ranging conditions between bison and cattle by age and sex class and season,” is one of the high priority studies and for which no action has been taken. This latter point is ironic considering that threshold action is predicated on the fact that this risk exists.

## **8. Current method for brucellosis testing over-estimates risk.**

The current method of screening infected versus unhealthy animals relies on a test that only verifies

exposure to brucellosis as indicated by the presence or absence of brucellosis antibodies. The number of carriers or contagious animals is much smaller than the number of animals that carry antibodies. Furthermore, whereby killing all animals that have antibodies you might be killing animals that are resistant to brucellosis bacteria and therefore cannot pass on this resistance to offspring.

Later on pages 148 and 149, there is a four paragraph discussion on *B. abortus* in Yellowstone bison. Here the DEIS states that the serological tests used on bison in YNP were originally developed for use in cattle, in which the relationships between seroprevalence and presence of the bacteria is highly correlated but evidence that suggests that the relationship between seroprevalence and actual infection is not highly correlated in bison. The DEIS states that "The precise relationship between serological tests and presence of *B. abortus* bacteria is not well understood at this time." This relationship could have been, and should have been, better examined by analyzing the results of management actions taken during the winter of 1996-97. Test results are still not available even though more than 13 months had passed from when the last bison was killed in April of 1997. The test results should be reviewed and incorporated in the FEIS.

As mentioned above, many bison who test seropositive but show no symptoms of the disease might carry genes that give them resistance to the disease. Removal of these seropositive animals may act to remove these disease-resistant genes from the population. Moreover, current genetic theory would suggest that bison leaving the crowded conditions of the park might in fact be "pre-emergent dispersers" and as such be carrying the population's best genetic material out of the Park and out of the Yellowstone bison's gene pool. Such considerations that might impact bison health and vigor are nowhere mentioned in this document. We are disturbed that livestock health is emphasized instead of the integrity of wildlife populations and ecosystem composition and processes particularly on public lands.

**9. The National Park Service's involvement in certain proposed actions are in violation of the National Park Service Organic Act and the Yellowstone National Park Protection Act, and the DEIS is unduly and inappropriately burdensome on NPS.**

Many of the alternatives would violate the National Park Service Organic Act, 16 U.S.C. § 1, because they direct NPS personnel to trap and send bison to slaughter rather than conserve them as required by law. They also would violate the Yellowstone National Park Protection Act, 16 U.S.C. § 26, because they provide for the trapping and shipment to slaughter of bison inside the park. National parks are meant to "conserve the scenery and the natural and historic objects and the wildlife therein . . ." The primary goal of park management and any management plan that the Park promotes should be to promote a free-ranging, self-sustaining/viable population of bison in Greater Yellowstone. Consequently, park resources and staff should not be used to prevent bison from roaming freely on public lands.

It is evident in the DEIS that park policy and management is being driven by certain interests of the

livestock industry. The alternatives are clearly not in the common interests of the American public. In a time of declining federal budgets, the National Park Service is being made to shoulder a costly program which could only potentially benefit a few livestock growers and private property owners near the park. It seems more reasonable that funding for this program should come from the Department of Agriculture and its clientele and not the Department of the Interior.

**10. The DEIS is not tolerant enough of bison on public lands. Preference should be given to bison over cattle on public lands.**

Because we believe that the source of much of the conflict between bison and cattle can be minimized by modifying livestock grazing on adjacent public lands, Defenders is disappointed to see that the DEIS advocates some modifications to grazing practices in only alternatives 2 and 7 and possibly in phase two of alternative 3. It is our firm belief, and that of many others, that wildlife should have precedence over livestock on many, if not most, public lands. This is particularly true of the Gallatin National Forest which provides important habitat for not only bison but a number of other species, including wolves and grizzlies. Modifications to public grazing allotments in the Gallatin National Forest should be a high priority.

The broad principles of National Forest Management Act require that the FS manage the lands on principles of multiple use, therefore, they are required to take any measures that are reasonable necessary to maintain the "multiple-use" of the land. The conditions that Defenders proposes are necessary for bison (wildlife) to forage and have access to public lands, thus are within a plain reading of the statute. These conditions are further supported in implementing regulations.

The FS is authorized to "[m]odify the terms and conditions of a permit to conform to current situations brought about by changes in ... management needs." 36 CFR 222.4 (7). Management needs, as defined by the statutory definition of "multiple-use," plainly include access to forage for bison. The FS can, "[m]odify the seasons of use, numbers, kind, and class of livestock allowed or the allotment to be used under the permit, because of a resource condition, or a permittees request" thus, FS is authorized to specify the time that the cattle are permitted on and off the allotment. Further, this provision states that the FS can control the "kind, and class" of cattle, allowing them to specify that the cattle are steers and have been vaccinated against brucellosis. This interpretation is bolstered by regulation 36 CFR 222.3(c)(vi)(A) which states that the FS shall prescribe, "[t]he amount and character of [...] livestock the permit holder shall be required to own." Clearly, when the FS has ability to define the "character" "class" and "kind" of the cattle, they have the ability to require that the permittee only graze vaccinated steer. In fact permits regularly state whether the cattle can be cow or steer. When these terms are considered with the objectives of the "multiple use" of public lands and the goals of diverse animal and plant communities, requiring vaccination, so that the bison can freely range, is well within the bounds of NFMA.

Under NFMA's regulatory provisions" (36 CFR sec. 219.19 and 219.27), "Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native

vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to ensure its continued existence is well distributed in the planning area...habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact in the planning area. Section 219.27 requires that plant and animal diversity be preserved and enhanced by management prescriptions, so that diversity "is at least as great as that which would be expected in a natural forest."

**11. The DEIS ignores the stewardship responsibilities of ranchers.**

Although cattlemen in the Greater Yellowstone Ecosystem are said to routinely vaccinate their female calves, the DEIS does not advocate mandatory vaccination presumably because the minimal expense would be borne by the rancher. In terms of cost-effectiveness, vaccination of cattle is an effective and inexpensive way to protect cattle from brucellosis. Not only would vaccination protect the livestock from transmission from bison, it would protect the herd from neighboring herds of cattle that may be infectious. If the ranching community and the DOL are so concerned with the threat of transmission from bison to cattle, the state should require vaccination of livestock in the GYA.

**12. Although the subject of a current, independent analysis, the possible impacts of road and trail grooming for snowmobiles should be more fully explained.**

Although we believe that the current research underway will reveal that road grooming significantly impacts bison distribution, the Citizen's Plan does not call for immediate changes in winter road grooming practices due to the legal settlement that directs NPS to prepare a new winter use plan and EIS. The Plan states that changes in winter road grooming practices will be made if the research shows they are warranted. However, even though Defenders advocates waiting until the EIS is completed, the DEIS should have provided more discussion on the current research which does indicate that road grooming for snowmobile use is a potentially significant factor in bison winter distribution. Some of the most extensive studies to date on this issue, including Mary Meagher's 1993 draft report *Winter Recreation-Induced Changes in Bison Numbers and Distribution in Yellowstone National Park*, are not cited in the DEIS. We encourage the lead agencies on the EA to lend more credence to this research and implement its findings more fully in future NEPA documents.

We were not pleased with the draft EA issued last year on the Temporary Closure of a Winter Road for the Yellowstone Region because it provided very poor documentation of the impacts to wildlife resources from winter recreational use in Yellowstone and because it over emphasized the economic impacts of the snowmobile industry. Critically lacking from the EA was a detailed explanation as to why road closures were being sought. The EA failed to adequately analyze the relationship between proposed road closings and the impacts on wildlife movement and migrations. We hope that future NEPA documents on this issue provide more balanced

information.

**13. Bison hunting as outlined in the alternatives could be more extensive than is necessary and inappropriate.**

Utilizing sport hunting as a principal means of controlling bison distribution and herd size is not appropriate. Although the Citizens' Plan utilizes a regulated harvest allowed under certain conditions, hunting of bison should be severely restricted. Defenders believes that hunting as described in the DEIS is not plausible because it would lead to conditions similar to those which occurred in 1985 when Montana implemented a public hunt season on bison.

**14. The impacts on declining, threatened and endangered species were dismissed.**

Although the DEIS provides greater documentation of the impacts to other wildlife species than the draft EA, we remain concerned that the anticipated impacts to certain species are being dismissed. The importance of bison carcasses to emerging grizzly bears in the spring was covered but we believe the impacts were minimized. We also believe the potential impacts to pronghorn are greater due to the proposed management activities in Reese Creek.

**15. The economic importance of Montana's livestock industry is not reviewed in the proper context.**

DEIS discusses extensively the economic concerns and economic value of the cattle industry in the GYE but fails to adequately document the economic value of free-ranging wildlife to the state of Montana. The DEIS overestimates the value of the livestock industry by including general agricultural statistics which include revenues generated from crops, sheep and poultry. At the same time, the DEIS fails to accurately estimate the importance of revenue generated from expenditures of resident and non-resident tourists and hunters.

According to statistics from the Montana Department of Labor and Industry, U.S. Bureau of Economic Analysis, agricultural production has been declining consistently from 1986-1996. It is projected in 2006 to be about half of what it was in 1986. An analysis of state statistics pertaining to projected job growth of nearly 650 occupations from 1996 to 2006 reveals that "general farm and ranch workers" and "farm ranch managers/operators" came in last with projected job losses of 12.87% and 13% respectively. More specifically, the statistics project a loss of 1,732 farm and ranch worker jobs (13,453-11,721) jobs between 1996 and 2006 and a similar projected loss in the category of farm and ranch managers/operators with a decline from 13,422 jobs in 1996 to 11,677 jobs. A review by the Congressional Research Service shows that only 3.6% of the commercial employment based on 7 NF in the GYE is attributable to livestock operations.

Some studies have shown that without public lands ranching, net incomes would probably increase for most rural economies. For example, in Idaho, hunters and fishers pay 15 times more for hunting and fishing licenses than all ranchers on BLM and FS ranch land in the state (1/4 of the state) pay in federal grazing fees. Without degradation of game animal habitat and attrition from ranchers, game animals populations in ID would soar. Because public lands ranches cover an average of more than 12,000 acres each, local rural economies are usually affected by only several to a score or so public lands ranching operations. Therefore, even if their contributions outweighed their detriments, the benefits could hardly be significant.

In light of the fact that agriculture is a declining industry within the state and that the FS receives minimal revenues from the handful of public lands grazing allotments in the Gallatin National Forest, Defenders would like the economic benefits derived from non-agricultural industries to be presented in the proper context in the final document.

**16. The DEIS lacks a true No Action alternative and has devised an arbitrary and capricious baseline.**

We are dismayed that the DEIS proposes the highly controversial interim plan as its NEPA required No-Action alternative. This is particularly disturbing because the No Action alternative would implement the Interim Plan without adopting the subsequent adjustments to the plan made in late 1997 which were issued in response to the plan's unanticipated surpassing of the historical kill figure. It is disturbing that the DEIS considers the controversial and lethal interim plan as the No Action alternative given the NPS's natural regulation mandate. Can the agencies consider this plan as an acceptable or viable alternative with the knowledge that 1,123 bison -- nearly twice the historical high of any previous year -- died as a result of that plan's implementation? The drafting team was aware from the public comment process on the EA that, with the exception of the Montana and Wyoming Stock growers Associations, every single non-governmental organization that commented rejected alternative one (the Interim Plan). Furthermore, the legality of the interim plan is currently being challenged. If it is found to be illegal, then we believe the DEIS must be rewritten to include a true No Action alternative and the interim plan must be deleted as an alternative.

**17. The role of each of the involved agencies is unclear.**

Defenders recognizes the need for interagency cooperation but we are uncertain as to what exactly is the role of the Montana Department of Fish, Wildlife and Parks under any of the objectives. In contrast, one of our most serious concerns is the continued role of the Montana Department of Livestock as the lead state agency responsible for bison management outside the park. The DOL's control of bison presents a conflict of interest and it is apparent from their history in this issue that they do not have the expertise nor the interest in preserving Yellowstone's bison herd according to the desires of most citizens. We strongly advise that their role be limited to private lands and that the control of bison outside the park on federal lands be returned to the Montana Department of

Fish, Wildlife and Parks.

## **18. Bison population numbers.**

The DEIS states that a minimum viable bison population for YNP may not be possible to define yet it cites unpublished research on a private bison herd that suggests 580 bison and a normal population sex and age structure are required to ensure random intermixing of breeding animals and avoid significant inbreeding. Although the DEIS also states that none of the alternatives intended to reduce the herd to that level and that in all alternatives, lethal control measures would cease well before the herd had been reduced to 580, we are concerned that this minimum population level has been referenced in the DEIS. Defenders recommends that a more formal minimum population viability analysis be conducted and that this reference to 580 bison be deleted from the EIS until the research has been completed and reviewed.

## **B. The need for a Citizens' Plan**

The first sentence of the preferred alternative states, "This alternative, like others evaluated in this environmental impact statement, involves many unknowns and assumptions about the future conditions and available tools to manage bison population." These unknowns and assumptions include: vaccination, land acquisition, a quarantine facility; state approval of SMAs; re-adoption of a hunting season; and determination of low-risk bison by the state of Montana. Too many of the key management tools utilized in the Preferred Alternative are of unknown status or require approval of the state of Montana and therefore the effectiveness of the Preferred Alternative cannot be estimated with any reasonable degree of certainty. This is one reason the Citizens' Plan was drafted -- to address the many unknown factors of the Preferred Alternative and to provide more specific information on how some of its management actions should be refined and implemented.

### **1. Key points of the Citizens' Plan:**

The Citizens' Plan, unlike the government plan, does not assume that future conflict is inevitable and that killing buffalo should be the primary strategy for resolving conflict. Instead, through land management changes and oversight by wildlife professionals it strives to reduce conflict, killing of buffalo and erosion of Yellowstone's values.

The plan specifically would:

- C Maintain wild, free-roaming buffalo in Yellowstone National Park;
- C Return management of the buffalo outside the Park to the Montana Department of Fish, Wildlife and Parks;

- C Create a special management area outside the park where buffalo can survive harsh winters;
- C Develop scientific buffalo population goals for this special management area and maintain minimum herd sizes below which the herd could not be reduced;
- C Use traditional wildlife management tools -- relocating buffalo to Indian reservations or public lands, and using a regulated harvest. These tools would be used only when population limits are exceeded on lands outside the park, or when private property or human safety are threatened;
- C Restrict buffalo from private lands if private property or human safety are threatened;
- C Emphasize acquisition of key winter range from willing sellers through purchase or conservation easement, and create incentives that would encourage landowners to modify livestock operations to increase winter foraging opportunities for buffalo outside the park.
- C Establish an interagency tribal-public cooperative management team of wildlife professionals to assist in determining buffalo management outside the park;
- C Recommend mandatory vaccination of cattle within and immediately adjacent to the special management area;
- C Allow vaccination of buffalo within the special management area, but only when two standards are achieved. First, the vaccine must be safe and effective for buffalo. Second, the vaccine must be administered in a non-intrusive manner;
- C Establish a voluntary program to compensate landowners for damage to fences and other permanent structures caused by natural buffalo migrations;
- C Support more research on brucellosis in wildlife and risk management options.
- C Support future changes in winter road-grooming practices if research shows that current practices are harming buffalo. Such changes would be implemented only after appropriate environmental analysis and public comment.

## **2. Defenders' additional recommendations to the Citizens' Plan:**

The Citizens' Plan advocates that a quarantine facility be constructed in Montana, Wyoming or Idaho. Assuming that APHIS modifies regulations to allow for the facility to be located outside the immediate or adjacent area of the park, Defenders' preference is to construct the facility at the Fort Belknap Reservation in Montana. This location, with operation by the Gros Ventre and Assiniboine tribes of Fort Belknap and their Fish and Wildlife staff, is appropriate for a number of reasons: the tribes' expertise in bison management and quarantine facilities; proximity to

Yellowstone National Park and lands where bison would eventually be relocated to; and Fort Belknap's detailed comprehensive management plan for a bison health certification facility which outlines the specifics of the building, its operation, costs and oversights. The goals of a bison health certification facility at Fort Belknap would be 1) to provide a publicly acceptable alternative to slaughter for serologic negative bison; 2) to make surplus Yellowstone bison available for restoration to ranges where they have been absent since the turn of the century; and 3) to make the Yellowstone bison gene pool available to herds outside Yellowstone National Park. For these reasons, we encourage the agencies to examine the Fort Belknap Reservation as a possible location in any future NEPA documents concerning Yellowstone bison.

The Citizens' Plan advocates an "appropriate, regulated harvest" of excess bison. Defenders interpretation of this specific wording is that the hunt be open only to Native Americans under very specific conditions. These conditions would occur when the population range of bison is at its upper limit and bison are located in remote and rugged terrain and approaching the border of the SMA near private lands. We believe that a hunt operated under such conditions and only by Native Americans would minimize the controversial use of hunting as a management tool.

#### **E. Defenders' Key Recommendations**

Defenders specifically recommends that the agencies:

- ! recognize that this DEIS deals with public resources on federal lands and that they are therefore compelled to consider the full range of public comments;
- ! remember that Yellowstone National Park and the surrounding public lands and wildlife are public treasures and make the broadest effort to solicit public input on all environmental impacts.
- ! conduct analyses and make recommendations that acknowledge and protect the fullest range of public interests including Native Americans, tourism and tourism related industries, conservationists, and the American tax-payers who pay to have these resources held in trust;
- ! use the best science available to consider management options and look diligently for alternative and non-lethal solutions, both inside and outside the Park, to this situation;
- ! conduct a formal risk analysis on brucellosis transmission between wildlife and livestock;
- ! fully consider and document all economic impacts including the cost of the program to all agencies and industries and thoroughly compare those costs to the potential economic risks to local ranchers including but not limited to revocation of public lands grazing leases in areas with brucellosis infected wildlife;
- ! encourage the agencies to work with the GYIBC, the conservation community and the

livestock industry to revise the protocol so it less restrictive, intrusive, time-intensive and costly;

- ! encourage APHIS to revise regulations regarding the acceptable locations for the quarantine facility so it can be constructed outside the GYA.
- ! strengthen the commitment to Native Americans in receiving live bison, particularly through the construction of a quarantine facility at Fort Belknap Reservation; and
- ! adopt the Citizens' Plan to Save Yellowstone Buffalo and utilize an adaptive management approach.

**F. Concluding remarks:**

In response to the Yellowstone bison-brucellosis controversy, the agencies have produced a series of troubling and ineffective interim management plans and it appears the agencies are now headed in the direction of adopting an equally problematic final plan. It is evident from the range of alternatives offered in the DEIS that the lead agencies fail to understand the cultural, aesthetic, and natural resource values of free-ranging bison to the American public, especially Native Americans. In light of the anticipated overwhelming opposition to this plan, Defenders encourages the drafting team and decision makers to bring the public into this process and either adopt the Citizens' Plan as the preferred alternative or start the process over.

Defenders of Wildlife thanks the National Park Service and other involved agencies for an opportunity to comment on the DEIS and we trust that the concerns of our staff, members, and the environmental community will be fully considered and explored in subsequent drafts or the final document.

Sincerely,

Robert M. Ferris  
Director, Species Conservation Division

Caroline Kennedy  
Program Associate