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Comments: I strongly object to the decision of Custer Gallaton National Forest Department to opt for Alternative F. It is a weak and unacceptable route to take when the welfare of a threatened species is at stake.

Failure to list bison as a species of concern

You state that 'the Yellowstone bison population is unique in that it is genetically pure (isolated from domestic livestock), and contains thousands of individuals that exhibit wild behavior and roam relatively freely over a very large landscape. As such, this bison population is of great importance to local, regional, national and tribal forest visitors'. Yet despite your key position of influence, you have systematically failed to support this importance and back the Regional Forester campaign to list American bison as a Species of Conservation Concern in Region One.

The decision not to back this classification was already preordained by Regional Forester Marten on Feb 7th 2019; almost a month before the draft forest plan was opened for public comment. Several pieces of relevant scientific evidence and genuine survival concerns were submitted by the public and experts. These were unlikely to have been assessed in these lost months (before, during and after public comment) when the decision not to legally protect buffalo was clearly already set in stone. I believe the best scientific evidence available was therefore not used and arguably intentionally ignored. The 'dynamic process' of assessment was essentially frozen in February last year.

Substantial concerns should have been raised from the most up-to-date evidence, triggering genuine long-term protections for bison and their migration routes. Failure to adequately assess the evidence and list American bison as a species of conservation concern has ensured that the Custer Gallaton National Forest Department does not have a duty of care to the buffalo; preventing the many benefits of the increased habitat protection that would have greatly improved the wider ecosystem.

The long-term survival of the species is now in doubt, with no transparent thought process as to how the decision NOT to list American bison as a conservation concern has been reached. Where is the evaluation of the evidence submitted during the public comment period? Where is the documentation to show that any evidence in favor of bison protections was ever seriously assessed and considered?

The depth and breadth of comments; coming from a multitude of complex sources involving tradition, rights (both human, animal and environmental) and varying perspectives, including the collaborative thoughts of nations and tribes such as the Piikani nation, the Crow Creek Sioux Tribe, Northern Cheyenne Tribe, the Mountain Tribal Leaders Council, twenty-three businesses, fifty-nine nonprofit organizations, 2,221 individuals and several NGOs; would take many man-hours to filter, review and assess. There should be pages of notes regarding points of agreement and conflict, alongside those requiring further confirmation or investigation, regardless of the commentator's stance.

The lack of public transparency and the inability to prove that all public comments and best scientific evidence supporting the protection of bison - seemingly in conflict with the (unofficial) department line - is a clear breach of the National Forest planning rules 36 CFR § 219.3, National Forest System Land Management Planning final rule and record of decision, 77 Fed. Reg. 21162, 21192 (Apr. 9, 2012). Even the final environmental impact statement is undated! The decision made by Regional Forester Marten not to list American bison must therefore be revoked and her workings; both for and against listing; must be made available to the public, so that any partiality can be revealed. The missing evaluation of the 'criteria and factors threatening the long-term persistence and viability of

genetically distinct and unique bison sub-populations in the Custer Gallatin planning area' must be urgently addressed (The best available scientific information on American bison's distinct and unique population substructure is found in Natalie D. Halbert et al., Genetic Population Substructure in Bison at Yellowstone National Park, Journal of Heredity, Advance Access published (Feb. 8, 2012)).

There is clearly an embarrassing lack of information as you will not allow the process to be opened up to public examination. Existing data ignored American bison meet all of the Forest Service's criteria for listing as a species of conservation concern. The vast majority of evidence and public comments reflected this need for an advanced level of bison protection via listing, yet this was ignored in favor of weaker options. The National Forest System Land Management Planning final rule and record of decision clearly states that 'in the assessment for plan development or revision, the responsible official shall identify and evaluate existing information relevant to the plan area for the following: Threatened, endangered, proposed and candidate species, and potential species of conservation concern present in the plan area'. 36 CFR § 219.6(b)(5), 77 Fed. Reg. 21162, 21263 (Apr. 9, 2012). So, yet another breach of the planning rules.

A data inquiry with the relevant agencies would have found significant supportive/corroborative evidence for species of conservation concern listing: Bison are listed by NatureServe as a G2 species internationally and S2 state-wide, due to being "at risk because of very limited and/or potentially declining population numbers, range and/or habitat, making it vulnerable to global extinction," and "making it vulnerable to extirpation in the state" of Montana. The Montana Natural Heritage Program states that only "1% of American bison's breeding range in Montana is left to perpetuate self-sustaining populations of the migratory species in the wild" (Montana Natural Heritage Program, SOC Report Animal Species of Concern, last updated April 16, 2020). The Custer Gallatin is therefore the location of the entirety of the "1% of American bison's intact breeding range in Montana". The state of Montana has already recognized bison as being at risk, which should have automatically triggered their assessment as an SCC [Species of Conservation Concern] within the plan. "Agency planning policy requires that species identified by states as being at risk be considered as potential SCC [Species of Conservation Concern]." Martin Nie et al., Fish and Wildlife Management on Federal Lands: Debunking State Supremacy, 47 Environmental Law 797, 862 (2017) (citing Forest Service Handbook: Land Management Planning Handbook § 1909.12 (2013)). Since 2010, both Montana Fish, Wildlife & Parks, and the Montana Natural Heritage Program have listed American bison as a "species of concern" (MNHP, 2010; FWP, 2010a), stating that they are "'at risk' due to declining population trends, threats to their habitat, and/or restricted distribution" (MNHP, 2010). They have been assessed by FWP and MNHP as requiring an S2 state ranking (MNHP, 2010; FWP, 2010a). Again, the Montana Comprehensive Fish and Wildlife Conservation Strategy (CFWCS) lists bison as Tier 1, meaning bison are in the "greatest conservation need. Montana Fish, Wildlife & Parks has a clear obligation to use its resources to implement conservation actions that provide direct benefit to these species, communities, and focus areas" (FWP, 2005, pp.32). This information alone would have been easily accessible to you. The evidence gathered and acknowledged by your fellow state departments regarding declining bison numbers has resulted in their subsequent designation of American bison as a species of concern. They have already used the best available scientific information to come to this conclusion. The evidence may be (slightly) dated by now, but the situation is unlikely to have improved, due to the current disgraceful treatment of bison.

Bison are currently expected to stick to an unnaturally limited migration route involving invisible agency lines, such as zone 3, that when crossed, seals their fate as a hunting fatality or a long-term victim of incarceration followed by slaughter. This is in addition to fragmented habitat, cattle grazing allotments, fencing, climate change, drought, and large-scale fires that then shift the bison's range into these aforementioned deadly "management zones".

All of these contentious, destructive issues could have been addressed by the listing of bison and the subsequent implementation of a bison-orientated management plan, yet despite the overwhelming evidence of their endangerment, you have still denied American bison and their range adequate protection and security.

Alternative F is weakThe language of Alternative F is weak; it relies heavily on voluntary good behavior. This is essentially the livestock industry we are talking about! Given public land practically for free, they perceive every wild animal as a threat (except for profitable elk of course, who despite being proven to spread Bovine Tuberculosis, make money for the state so are left in peace - as the non-BT-carrying bison should be). Our national mammal needs protection through the law, which will not be achieved by legislative weakness and allowing persistent persecution.

You state that the Interagency Bison Management Plan management zones delineate 'where bison presence is tolerated and management is emphasized. Management zones are just that. They are an unnatural human intervention. I would argue the only thing being emphasized by the weak decisions being made are the vested interests of the livestock industry. This is completely the wrong mindset. It is disconnected from the needs of American bison and their millennia-old migration routes.

We need you to provide, via the final alternative plan, the ecological conditions in which bison are allowed to thrive and persist, of which habitat conservation and the enabling of uninhibited migration are key factors. Appalling state and federal management actions has seen the central herd reduced from 3,531 individuals to just 847 between 2006 to 2017. That is a decline of over 76% in just 11 years! (P.J. White et al., Management of Yellowstone bison and brucellosis transmission risk - Implications for conservation and restoration, 144 Biological Conservation 1322, 1329 (2011); Chris Geremia et al., Status Report on the Yellowstone Bison Population, page 1 (Sept. 2017). It is completely unjust to allow this decline to continue.

The current estimate of the Central herd bison is a little higher at 1,162 individuals, but is still far below the 'minimum census of 2000-3000 mature individuals needed to avoid inbreeding and maintain genetic variation for a wild population with a distinct sub-population structure'. Philip W. Hedrick, Conservation Genetics and North American Bison (*Bison bison*), 100(4) Journal of Heredity 411, 419 (2009); Natalie D. Halbert et al, whilst '5,000 adult individuals or more 'are required to withstand climate change and habitat loss. Lochran W. Traill et al.. Pragmatic population viability targets in a rapidly changing world, 143 Biological Conservation 28, 30 (2010).

Instead of strong 'standards' regarding the conservation of habitat, which can then be upheld by Custer Gallatin National Forest, Alternative F suggests "desired conditions" - which means what exactly? The 'desired conditions' of one person can be completely at odds with another's, and therefore challenged - further complicating and dragging on the case for the continued persecution of bison.

Standards enable goals to be established and met in order to achieve adaptability in the herd. This would enable the aforementioned management zones to be scrapped in order that the herd can survive threats such as extended drought due to climate change; increasing their range unhindered by the current mismanagement that is currently culling the herd at every turn. The "desired conditions" of "stable and increasing genetic diversity would have no influence on wider policy as it has no teeth. It would allow intolerance areas, such as zone 3, to continue to exist and inhibit the stability of the population. The final alternative must....categorically list bison as a species of conservation concern and acknowledge existing data. include standards and laws not weak, unenforceable "desired conditions". ensure that habitat management allows bison populations the freedom and ability to reach each other in order to increase their genetic diversity. Laws must be put in place to ensure this happens within our national forests. No more passive acceptance of state claims of authority over wildlife numbers. The current clause that you do "not create a barrier to bison movement unless needed to achieve interagency targets for bison population size and distribution" fails the bison by inhibiting connectivity, as these population targets will always exist unless challenged by the Custer Gallatin National Forest Department (2020 Land Management Plan, Guidelines, FW-GDLWLB-03, page 59 (July 2020). This clause must be removed immediately if we are to follow the best available scientific data, restore and maintain habitat connectivity, and provide for diversity and viability of distinct migratory herds on our National Forests, as per the National Forest planning rule requirements. ensure that bison are able to migrate and forage where they choose in order to survive. Freedom of movement means continuous access to food and water; the search for which benefits a huge array of other

species (both animal and plant); due to the snow and earth moving abilities of these powerful animals. Migration routes must be uninhibited and kept accessible. Barrier removal must be implemented. 'American bison have already lost 14 migration routes or corridors in the Yellowstone ecosystem'. Joel Berger, *The Last Mile: How to Sustain Long-Distance Migration in Mammals*, 18(2) *Conservation Biology* 320-331, 322 (April 2004). Add to this the killing of matriarchs with the knowledge of migration, and the ability of the central herd to adapt to threats is significantly weakened, risking extinction. conform to National Forest planning rule requirements providing connectivity to habitat for American bison by removing all barriers to migration; especially those deliberately placed to deter migration to specific areas, such as the 900 feet of jackleg fencing uphill from both sides of the Yellowstone River and associated gates and "cattle guards" on HWY 89 near Yankee Jim Canyon in Gardiner basin, and the approval of 695 feet of electrified fencing, associated cattle guards, and gates preventing migration downstream and to Madison Valley. A permanent end to all current and future disruptions to migration must be established within the plan area. end state control of bison numbers and their man-made stressors; particularly "management zones". Management and exclusion zones far outweigh inclusion zones and they are the very antithesis of a free and healthy bison population thriving within its native range. They encourage the killing of bison at every turn, micro-managing their every step, reveling in any 'mistake' or 'wrong turns' made by bison that allows for a 'legal' kill to take place - either via the gun or via the trap. Even their calving grounds have no official standards or protective legislation. The Forest Service must take back control and scrap this deeply unethical curtailing of bison movements and re-establish autonomy within the Custer Gallatin National Forest Department. This will address the risk of local extinction, which is currently occurring in over three quarters of the landscapes on the Custer Gallatin. categorically ban the trapping of bison, either by the forest department or by the state. This has historically been authorized by the forest department; even within the calving grounds on Horse Butte; over the last 20 years. close all cattle grazing allotments on our National Forests within bison habitat and all possible migration routes. Ranchers' expectations, via the Montana Dept. of Livestock, that they can exploit public land to the detriment of all wildlife must end. Removing the power of ranchers is key to ending the continued persecution of these magnificent animals. The Montana Dept. of Livestock should have no jurisdiction over public land use within bison habitat whatsoever. This would permanently end all hazing and killing 'obligations' for good. ensure grassbanks that have built up in empty allotments only support wild bison and other native species who need to bulk up before harsh winters - and not reserved for domestic cattle. Cattle are brought in during the winter and fed grain. They do not need to rely on prime bison habitat to sustain themselves - especially in numbers that far outweigh those of the bison. ensure the three habitat improvement projects every three years to connect habitat, truly benefit American bison 2020 Land Management Plan, Objectives, FW-OBJ-WLBI-01, page 58 (July 2020). The evidence and feedback of what has been achieved by the Custer Gallatin National Forest Department so far is scant. With the persistence of 'management zones' and associated hazing and trapping, even when conditions are beneficial to bison, they are often harassed away from utilizing - and additionally benefiting (seed dispersal, soil aeration etc) - the newly nutritiously rich ecosystem conditions. A prime example is burned lodgepole pine forest south of the Madison River. New shoots attract bison, yet intolerant zones ensure they are unable to reach them - despite being within their prime habitat within the National Forest. ensure fire is utilized more to trigger ecological changes that are extremely beneficial to bison. Many species can remain dormant until the land is burnt, warming the ground and removing leaf litter to inspire growth. Sedge-grassland is a prime example and is an essential winter habitat for bison. Bison grazing can also result in creating natural fire breaks. The lack of bison has therefore arguably increased the occurrence and severity of fires. Allowing bison to follow their instincts and graze on fire damaged land is just one way in which they naturally manage northern mixed-grass prairie Julie L. Tesky, *Bos bison*. In: *Fire Effects Information System*, (U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory, 1995). Grazing is a mutually beneficial behavior that has implications throughout the forest food web. They must be able to interact naturally in the forest ecosystem to allow other species to prosper; ensuring the persistence and diversity of native plant and animal species that the National Forest planning rule requires to be maintained. Conclusion

Bison need to be immediately acknowledged as a species of concern by the Custer Gallatin National Forest Department. Only then can a comprehensive decision be made on which Alternative plan can enable the best

possible standards to be set by which to ensure the welfare and protection of American bison and their habitat, vastly improving their current perilous situation.

Alternative F has no teeth with which to change anything for the better. It has no standards set for wildlife connectivity, diversity, and population viability. How is this the "environmentally preferred" alternative for the Custer Gallatin National Forest's land management plan? Piggybacking off of plans set out for grizzly bears, in regard to food storage and limits on recreation in key linkage areas is in no way bison-appropriate! 2020 Land Management Plan, Standards FW-STD-WL-01, FW-STD-WL02, page 54 (July 2020). It is just one example of the lack of thought that has gone into Alternative F.

Alternative F essentially aims to maintain the status quo and not cause ripples among other state departments that are clearly anti-bison. It absolutely fails to meet the National Environmental Policy Act's standards as an environmentally preferred alternative. The status quo can not be allowed to continue. The next 11 years will undoubtedly see their extinction if they mirror the aforementioned 2006 to 2017 period. The plan should encompass 'all practicable means and measures . . . to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.' 42 U.S.C. § 4331(a) and "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;" whilst "attaining the widest range of beneficial uses of the environment without degradation . . . or other undesirable and unintended consequences;" in order 12 to "preserve important historic, cultural, and natural aspects of our national heritage" including the American bison. 42 U.S.C. § 4331(b)(1),(3),(4). Once again Alternative F fails.

Man's continued 'culling' and absolute dominance over a herd that is only 1,162 individuals 'strong' needs waves to be created in order to be saved - not just ripples! Alternative F will not even achieve the latter. It does not fulfill your legal duties and its reliance on weak 'desires' and 'goals' will certainly will not save the imperiled bison.

You are the custodians of 145 million acres of habitat on which there are "no self-sustaining herds of wild plains bison existing on National Forest System lands." U.S. Forest Service, Region 2, Regional TES Species Program Leader Nancy Warren, American Bison R2 Individual Species Recommendations, (Apr. 29, 2011); U.S. Forest Service, National and Regional Areas Summary (Table 1) (Oct. 17, 2015). This is a sad state of affairs that will continue, until the adoption of the weak and lazy Alternative F by Forest Supervisor Mary C. Erickson, and the decision by Regional Forester Marten not to list American bison as a species of concern, are both urgently reevaluated.

You can do better than this.