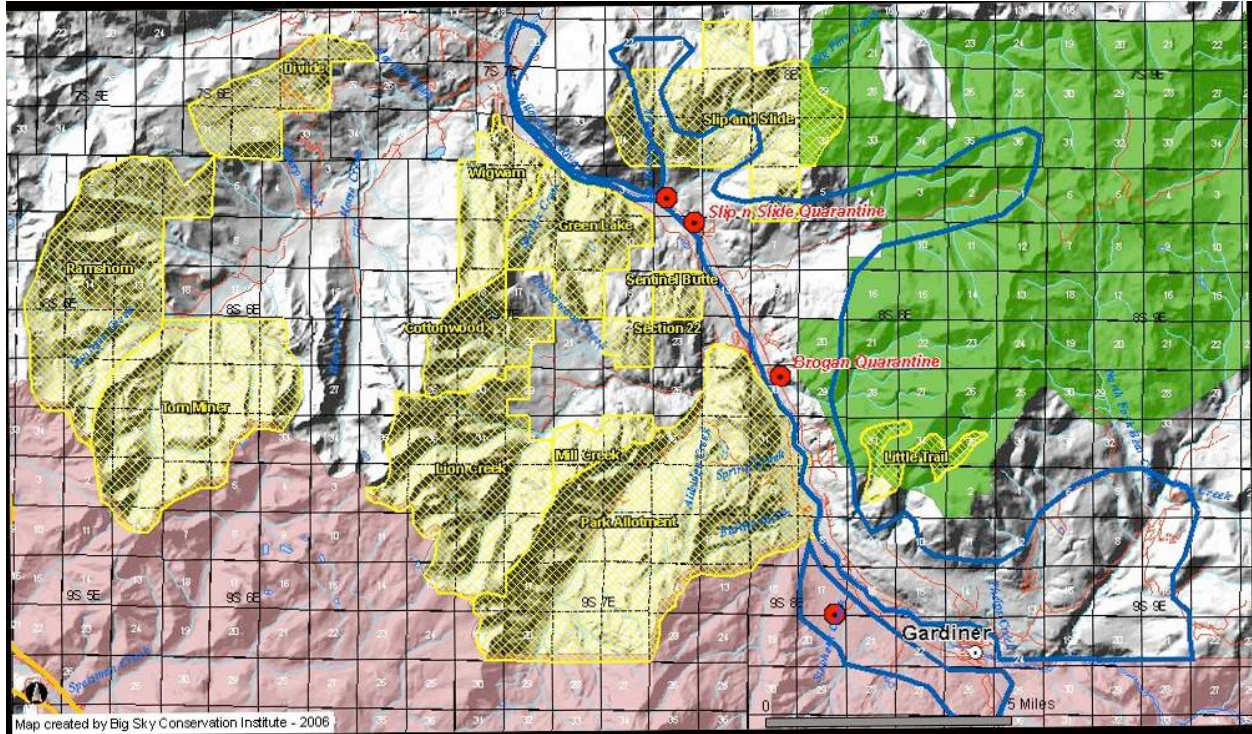


Status review of public lands grazing on the Gallatin National Forest Hebgen Lake and Gardiner Ranger Districts

A critique of land management decisions on National Forest lands and their impact on wild bison in Yellowstone



AUGUST 2007

Buffalo Field Campaign
PO Box 957 West Yellowstone MT 59758
(406) 646-0070
buffalo@wildrockies.org

Darrell Geist & Associates
PO Box 7941 Missoula MT 59807
(406) 531-9284
z@wildrockies.org

This report includes an Excel spreadsheet detailing the Gallatin National Forest's grazing program on the Hebgen Lake and Gardiner Ranger Districts. This report was updated August 2007 to include new information.

ONLINE MAPPING OF GRAZING PROGRAM

Buffalo Field Campaign and Big Sky Conservation Institute have collaborated to create an online Interactive Mapping Service presenting land use, bison habitat, Geographic Information System and ownership data in the Yellowstone ecosystem. The mapping service includes Gallatin National Forest grazing program data and maps viewable online at: <http://bsci.bigsky.org/website/Buffalo/viewer.htm>.

Use the Guide and Toolbox Key to help you navigate the Interactive Mapping Service site: <http://www.buffalofieldcampaign.org/habitat.html>

HEGBEN LAKE/GARDINER RANGER DISTRICT GRAZING OVERVIEW

National Forest acres under allotment^A: 105,863

Private acres under allotment^B: 20,691

Active permitted cow/calf pairs^C: 1,347

Active permitted yearlings: 89

Active permitted horses: 397

Monthly grazing cost per head^D: \$1.56

Active permits: 27

Vacant permits: 9

Waived permits: 4

Vacated permits^E: 1

A. Figure includes Gardiner Ranger District estimate of National Forest acreage on Cottonwood, Lion Creek, Little Trail, Cedar Creek, and Canyon grazing allotments. The figure is derived from all grazing permits issued since 1991. Acreage not included for which there is no information available includes vacant allotments in Red Canyon, Dry Gulch, Duck Creek, and University.

B. Figure includes grazing acreage on private lands for which information is available from Gallatin National Forest records or is compiled from Montana Natural Resource Information System data <http://www.nris.mt.gov>.

C. Figures for permitted livestock are derived from active grazing permits as of March 2007.

D. The grazing fee is calculated on the amount of forage consumed by one animal unit – a cow/calf pair or horse/mule – in one month. If all currently active permits were grazed full term at permitted livestock levels, the grazing program on the Hebgren Lake and Gardiner Ranger Districts would annually return approximately \$8,960 to the US Treasury. (Fees are not paid on private term grazing permits). The grazing fee is scheduled to decline to \$1.38 in 2007. FOREST SERVICE AND BLM ANNOUNCE 2007 FEDERAL GRAZING FEE, News Release, February 2, 2007, <http://www.fs.fed.us/news/2007/releases/02/grazing-fee.shtml>.

E. The Horse Butte term grazing permit was vacated and grazing enjoined by federal court order until the Gallatin National Forest conducts a proper National Environmental Policy Act environmental review.

HIGHLIGHTS OF GARDINER RANGER DISTRICT GRAZING PROGRAM

Gardiner District Ranger Ken Britton has stated his intention to close several vacant grazing allotments including Little Trail, Cedar Creek, Cottonwood, and Lion Creek.¹ An announcement from the district was expected during the winter of 2006/2007 to close these allotments via a Categorical Exclusion. Recent correspondence from Ken Britton left open the possibility that the Gardiner Ranger District would wait to address closure of vacant grazing allotments through revision of the Gallatin National Forest's Forest Plan. As of August 2007 there has been no announcement to close vacant grazing allotments on the Gardiner Ranger District.

In 2004, the Church Universal and Triumphant waived its term grazing permit on the Park allotment back to the Gallatin National Forest.² The Park allotment encompassed the 1,508 acre Devil's Slide conservation easement acquired for \$1.8 million by the Rocky Mountain Elk Foundation, and conveyed to the US Forest Service in 1999.³ The Devil's Slide conservation easement is part of the 6,770 acre taxpayer funded \$13,056,503 Royal Teton Ranch land deal "to protect critical wildlife habitat, particularly ungulate winter ranges and migration corridors, and improve the flexibility for management of those species."⁴

Despite the provision for a Bison Management Plan in the conservation easement, over seven years have passed in which the Gallatin National Forest and Church Universal and Triumphant have failed to "identify ways to manage the land to preserve, restore and enhance the bison that utilize the Property and their habitat."⁵

The failure to produce a Bison Management Plan for the Royal Teton Ranch, and Gallatin National Forest lands, prevents the federal and state agencies from moving to Step 2 in the 15 year Interagency Bison Management Plan.⁶ The prospect that wild bison would benefit from the Royal Teton Ranch land conservation agreement when the Park grazing allotment expired in 2002 was stated in the interagency plan's environmental analysis and record of decision.⁷ However, the Gardiner District Ranger for the Gallatin National Forest subsequently approved the Church Universal and Triumphant's plan to graze up to 178 cow/calf pairs on Devil's Slide.⁸

The consequence of failing to proceed to Step 2 in the Interagency Bison Management Plan has resulted in less, or no tolerance, for wild bison on private and Gallatin National Forest lands in the Gardiner Basin.

Step 1's impact to wild bison in the winter of 2005/2006 counted 849 bison captured and sent to slaughter from Yellowstone National Park's Stephens Creek bison capture facility. Eight bison died while being held in captivity or as a result of injuries received while held in captivity. Eighty-seven bison calves were removed from their family groups within the herd to the Brogan quarantine facility at Corwin Springs. An additional 59 wild bison were killed by the Montana Department of Livestock including two bison that fell through the ice on Hebgen Lake during a bison hazing operation. Yellowstone National Park shot one wild bison.⁹

Finally, it is unclear if the Gardiner Ranger District is following its original National Environmental Policy Act schedule to timely review term grazing permits as Congress had intended. (See the discussion below on *Greater Yellowstone Coalition et al v. Dale Bosworth et al*. Earthjustice has provided a copy of the original Gallatin National Forest Range Allotment NEPA Schedule to Buffalo Field Campaign).

HIGHLIGHTS OF HEBGEN LAKE RANGER DISTRICT GRAZING PROGRAM

In 2002, a US District Court ruling vacated the Horse Butte term grazing permit and enjoined the Gallatin National Forest from reissuing the allotment without proper

National Environmental Policy Act review. In *Greater Yellowstone Coalition et al v. Dale Bosworth et al*, the US District Court for the District of Columbia ruled that the Gallatin National Forest failed to adhere to its original NEPA schedule for timely analyzing and re-issuing the term grazing permit for the Horse Butte allotment.¹⁰

In this case, the court sided with Earthjustice attorneys who successfully argued that when Congress passed the Rescissions Act of 1995 it required each Forest within the Service to establish a NEPA schedule for analyzing grazing permits.¹¹ The court ruled the Gallatin National Forest did not have the authority to amend its original schedule for reviewing livestock grazing permits set to expire on federal public lands. Congress had intended for the Service to stick to its' original schedule.¹²

The District Court's ruling is applicable to the Gallatin National Forest's entire grazing program. Most of the grazing permits on the Hebgen Lake and Gardiner Ranger Districts are scheduled for review by 2010. In addition, for several allotments, the Gallatin National Forest appears not to have met its original schedule for reviewing grazing permits. Further scrutiny of the Gallatin National Forest's compliance with the 1995 Rescissions Act and the National Environmental Policy Act is warranted.

PUBLIC LAND USE MANAGEMENT DECISIONS AND WILD BISON

Bison hunting, proposed and existing bison capture facilities, grazing livestock and fencing habitat on National Forest lands in the Gallatin National Forest is contributing to the loss of habitat for wild bison migrating from Yellowstone National Park along the Madison River, Gallatin River and Yellowstone River drainages. Several examples of land use decisions affecting National Forest lands illustrate this point:

- Opening 23,000 acres in the Eagle Creek drainage to bison hunting effectively removed wild bison from wintering on National Forest lands on the Gardiner Ranger District.¹³
- Permitting the Horse Butte bison capture facility has displaced wild bison from habitat on Horse Butte peninsula – 24,000 acres of National Forest lands on the Hebgen Lake Ranger District that support an array of wildlife and plant species.¹⁴
- Completion of the 6,770 acre Royal Teton Ranch land conservation deal in the Gardiner Basin has failed to “provide a safe haven” for wild bison.¹⁵

Over 105,000 acres of National Forest lands are permitted for grazing private livestock on the Hebgen Lake and Gardiner Ranger Districts. Actual and potential bison habitat exists on National Forest lands surrounding Yellowstone National Park.¹⁶ Permitting private cattle grazing, particularly cow/calf pairs, and fencing off native wildlife habitat precludes wild bison from inhabiting National Forest lands on a seasonal and year-round basis.

In addition, arbitrary Zone management boundaries in the interagency plan exclude wild bison from migrating to winter range downriver of the Royal Teton Ranch including the taxpayer funded acquisition of the 3,265 acre OTO Ranch in Cedar Creek, now part of

the Gallatin National Forest.¹⁷ For Fiscal Year 2008, the U.S. Forest Service has requested \$5,300,000 from Congress to acquire 530 acres of the Slip & Slide Ranch located south of Dome Mountain below Yankee Jim Canyon.¹⁸ The Slip & Slide is identified as “critical fall/winter and migratory habitat for elk herds” and critical habitat for the survival of “bison, pronghorn antelope, mule deer, and moose” during harsh winters.

Despite arguments to the contrary by the agency,¹⁹ the Gallatin National Forest has jurisdiction over its land use decisions on National Forest lands, a point made clear in the agency’s decisions to manage public lands for private livestock over wild bison.²⁰ The Gallatin National Forest need not cede its authority to manage National Forest lands for wild bison to other agencies implementing the Interagency Bison Management Plan. In fact, the Gallatin National Forest’s principal role in the interagency plan is to “provide habitat for bison.”²¹

One of the stated goals of the existing Forest Plan for the Gallatin National Forest is to provide “habitat for viable populations of all indigenous wildlife species and for increasing populations of big game animals.”²² The Gallatin National Forest has yet to meet this standard in its public land management decisions for wild bison inhabiting National Forest lands.

National Forest lands surrounding Yellowstone National Park are part of the Yellowstone bison herd’s native and historic range. Land use decisions made by the Gallatin National Forest have greatly diminished the cultural, historical and ecological importance of wild bison occupying its native habitat on National Forest lands in the Yellowstone ecosystem.

Sources

1. District Ranger Ken Britton, Gardiner Ranger District letters to Buffalo Field Campaign, August 23, 2006 and November 30, 2006.
2. Waiver of Term Grazing Permit Number 305, Royal Teton Ranch, September 23, 2004.
3. USFS Gallatin National Forest Briefing Paper, Royal Teton Ranch Land Conservation Project, (Current 2003). RTR Purchase Summary with Funding Breakdown January 20, 2000 updated March 6, 2000 to include Phase II closing costs.
4. Devil's Slide Purchased Conservation Easement BASELINE STUDY, Royal Teton Ranch Conservation Project, January 2001.
5. Deed of Conservation Easement, Royal Teton Ranch, Devil's Slide Area August 30, 1999, Section VII.
6. A STATUS REVIEW OF ADAPTIVE MANAGEMENT ELEMENTS 2000 to 2005, Status Review Team Dr. Ryan Clarke, Animal and Plant Health Inspection Service, Craig Jourdonnais, Montana Department of Fish, Wildlife & Parks, John Munding, Montana Department of Livestock, Lisa Stoeffler, Gallatin National Forest, Rick Wallen, Yellowstone National Park, September 2005, page 32.
7. "It is expected that bison would be able to use the acquired lands for winter range when a cattle lease currently in operation on part of this property expires in 2002." Bison Management Plan for the State of Montana and Yellowstone National Park, Volume I Final Environmental Impact Statement, August 2000, page xvii. "Step Two in the north boundary area begins when cattle no longer graze during the winter on the Royal Teton Ranch adjacent to the Reese Creek boundary of the park. The agencies expect this to occur when a preexisting private cattle lease expires in 2002." RECORD OF DECISION, FINAL ENVIRONMENTAL IMPACT STATEMENT AND BISON MANAGEMENT PLAN FOR THE STATE OF MONTANA AND YELLOWSTONE NATIONAL PARK, U.S. Department of the Interior, National Park Service, U.S. Department of Agriculture, U.S. Forest Service, Animal and Plant Health Inspection Service, December 20, 2000, page 12.
8. CHURCH UNIVERSAL AND TRIUMPHANT Devil's Slide Conservation Easement Grazing Management Plan, December 10, 2002. District Ranger Ken Britton, Gardiner Ranger District letter to Kate Gordon, President Church Universal and Triumphant, February 25, 2003.
9. Special Alert! Buffalo Field Campaign, March 20, 2006. Bison kill tally 2005-2006, Dan Brister, Buffalo Field Campaign. <http://www.buffalofieldcampaign.org>.
10. US District Court for the District of Columbia, Civil Action NO.: 01-1516 (RMU) (JMF) Magistrate Judge Facciola opinion, Ricardo Urbina final judgement and order, May 13, 2002.
11. Ibid, page 4. Rescissions Act, Pub. L. No. 104-19, 109 Stat. 194. (1995).
12. Ibid, page 9.
13. Though the decision to hunt wild bison rests with the state of Montana, the Gallatin National Forest retains jurisdiction and authority over how public lands are managed for big game. Prior to the bison hunt, wild bison migrating to winter range on the Gallatin National Forest consistently selected habitat, and were generally tolerated, in the Eagle Creek drainage. In the Hebgen Basin, the hunting districts surround migratory corridors for bison wintering in the upper Madison valley. Consequently, there is no secure habitat for wild bison on Gallatin National Forest lands during the bison hunt. 2006 Bison Hunting Regulations, Montana Fish, Wildlife & Parks. Final Bison Hunting EA Decision Notice, Montana Fish, Wildlife & Parks, November 4, 2004. The Montana Fish, Wildlife & Parks Commission approved the bison hunt on August 3, 2006.
14. Decision Notice and FONSI for the Horse Butte Bison Capture Facility, District Ranger Gary

- "Stan" Benes, Hebgen Lake Ranger District, Gallatin National Forest, December 1, 1998.
15. "Whereas, the Grantor finds itself in a unique position to aid and assist in the preservation of the Yellowstone National Park bison and other wildlife by setting aside a portion of its lands, in perpetuity, thereby providing in the natural world, a safe haven for the bison; and Whereas, the Grantor's lands provide significant winter range and crucial habitat for many indigenous species including elk, bighorn sheep, mule deer, pronghorns, grizzly and black bears, mountain lions, other indigenous wildlife, and, upon completion of the Bison Management Plan, significant winter range and crucial habitat for bison;" Deed of Conservation Easement, Royal Teton Ranch, Devil's Slide Area August 30, 1999.
 16. Winter Range Assessment for Bison in the Upper Gallatin River Drainage: DRAFT FWP population objective for bison wintering in the Taylor Fork/Porcupine areas, Craig Jourdonnais, Wildlife Biologist, Montana Fish, Wildlife & Parks, January 20, 2006. See also Bison Habitat Evaluation East of the Yellowstone River from Dome Mountain to YNP, Tom Lemke, Wildlife Biologist, Montana Fish, Wildlife & Parks, February 14, 2006 and Wildlife Habitat and Wildlife Use On and Near the Royal Teton Ranch, Tom Lemke, Wildlife Biologist, Montana Fish, Wildlife & Parks, July 7, 1997.
 17. "The entire OTO Tract is currently located in Zone 3 as established in the Interagency Bison Management Plan (IBMP). As stated in the IBMP, "Zone 3 is the area where bison that leave Zone 2 would be subject to lethal removal" (pp 31, Record of Decision, Final Environmental Impact Statement (FEIS) and Bison Management Plan for the State of Montana and Yellowstone National Park, December, 2000). Under the Interagency Bison Management Plan, the migratory corridor would not be available for consideration until conditions described through Steps 1, 2, and 3 in the Interagency Bison Plan have been met and either some tolerance of bison in Zone 3 is accepted or the Zone 2 boundary is expanded to include the OTO Tract. That decision is beyond the scope of the Northern Yellowstone Winter Range Acquisition – OTO Tract decision." Gallatin National Forest Plan Amendment, Northern Yellowstone Winter Range Acquisition, OTO Tract, DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT, Appendix A, Response to Comments, Northern Yellowstone Winter Range Acquisition - OTO Tract, Environmental Assessment. Gallatin National Forest, Gardiner Ranger District, Park County, Montana, January 2006. In 1989, Congress appropriated \$3,500,000 in funds to assist in the acquisition of the OTO Ranch. <http://thomas.loc.gov/cgi-bin/query/z?r101:S08FE0-1042>:
 18. U.S. Forest Service FY 2008 Land Acquisition Request, October 20, 2006.
 19. "If the cooperating agencies involved in the IBMP consider changes in bison management policy that favors the establishment of areas outside Yellowstone Park where bison can be allowed to migrate freely, and if one candidate area is the Taylor Fork drainage, I would have the ability to modify or cancel the grazing permit at that time to accommodate use of the Cache-Eldridge Allotment area by bison. This would also be true should the Gallatin Forest Plan be amended or revised to no longer emphasize livestock grazing in this area." CACHE-ELDRIDGE ALLOTMENT MANAGEMENT PLAN UPDATE, Decision Notice and Finding of No Significant Impact, Gallatin National Forest, Hebgen Lake Ranger District, Gallatin and Madison Counties, Montana, April 2006 DN-20.
 20. Ibid.
 21. RECORD OF DECISION, FINAL ENVIRONMENTAL IMPACT STATEMENT AND BISON MANAGEMENT PLAN FOR THE STATE OF MONTANA AND YELLOWSTONE NATIONAL PARK, December 20, 2000, page 14.
 22. Gallatin National Forest Land and Resource Management Plan, 1987, page II-1.