

Summer L. Nelson  
Western Watersheds Project  
Montana Legal Counsel  
P.O. Box 7681  
Missoula, MT 59807  
(406)830-3099  
(406)830-3085 FAX  
summer@westernwatersheds.org

Rebecca K. Smith  
Public Interest Defense Center, P.C.  
P.O. Box 7584  
Missoula, MT 59807  
(406) 531-8133  
(406) 830-3085 FAX  
publicdefense@gmail.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

<p>WESTERN WATERSHEDS PROJECT, et al.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>SALAZAR, et al.,</p> <p>Defendants.</p>	<p>CV-09-159-M-CCL</p> <p>DECLARATION OF JOE GUTKOSKI</p>
--	---

## **DECLARATION OF JOE GUTKOSKI**

Pursuant to 28 U. S. C. § 1746, I, Joe Gutkoski, hereby declare under penalty of perjury that the following is true and correct:

1. My name is Joe Gutkoski, and I live in Bozeman, Montana. I have been a Montana resident since 1951.
2. My professional training includes a Bachelor of Science in Landscape Architecture, which I received from Pennsylvania State University in 1951.
3. I worked for the United States Forest Service for 33 years, in several locations including in Idaho, Montana, North Dakota, South Dakota, Alaska, and Wyoming. I retired from the Forest Service in 1981, and have worked since then in private practice as a landscape architect.
4. I am the president and founder of the Yellowstone Buffalo Foundation (YBF), formerly called the American Buffalo Foundation.
5. YBF is a nonprofit, public interest organization founded in 1991, with its headquarters in Bozeman, Montana. YBF is committed to restoring wild bison on public lands managed by states and the federal government. YBF recognizes and values the unique importance of the Yellowstone area bison to bison restoration in general.
6. On behalf of members and itself, YBF advocates for wild bison habitat outside YNP, and for preservation of viable bison herds.
7. I have closely followed and participated where possible in bison management issues in the Greater Yellowstone Area for decades, on behalf of YBF and as an individual. I strongly value wild bison descended from the original plains populations that have remained

wild in the GYA since these wild, native bison were nearly wiped out in the late 1800s.

8. It is very important to me and to YBF that these remaining bison in the Greater Yellowstone Area are managed as wildlife, and protected so that the populations are healthy and can sustain themselves long-term. Bison are native to the Greater Yellowstone Area, and it is important to me that they be re-established on public lands in the Gardiner Basin and West Yellowstone Basin.
9. I, and Yellowstone Buffalo Foundation, believe bison are a critical element of the area's ecology. Without year round habitat including areas outside of Yellowstone National Park, I am concerned that bison populations will not be sustained long-term, and their valuable role in the ecosystem will be depleted. I have already witnessed negative impacts to the bison populations and their habitat due to the actions and management decisions of the United States Forest Service, the National Park Service, and other agencies they work with to manage bison and exclude them from their native habitat.
10. I gain aesthetic, recreational, and scientific benefits from watching wild bison in a natural setting. I particularly enjoy and value studying wild bison and how they use their natural habitat, their reproductive instincts, and their natural resistance to extreme climates. Observing these natural behaviors requires that the bison be able to migrate to and use the areas that are part of their historic habitat, many of which are still necessary to support them as truly wild animals and populations.
11. Seeing wild bison on wild land makes my spirit soar, in that a native animal has returned to their rightful place in their habitat. I desire to

continue watching bison on their native habitat. I am concerned that the agencies' management is impairing my ability to do that over time, because the agencies do not know what impacts they are having on the viability of the bison populations, and they have not considered and responded to evidence that their actions may be negatively impacting the genetic diversity of the bison.

12. I regularly visit the areas where the native bison live, expressly to observe and enjoy them in the wild. I visit the Gallatin National Forest in areas north of Yellowstone National Park where bison attempt to migrate and where they often are removed by hazing or capture and slaughter. I also visit Yellowstone National Park, and particularly enjoy viewing bison in the park.
13. I have visited the following domestic grazing allotments in the Gallatin National Forest: Duck Creek, Red Creek Fan, Rob Ledford, Bear Creek, and the Taylor Fork. I intend to continue visiting these areas, and hope to see bison able to use these areas of habitat again someday.
14. I have visited and continue to regularly visit other areas of the Greater Yellowstone Area for the purposes of viewing wild bison. These areas include Tepee Creek, Daly Creek, and the Taylor Fork area.
15. I visit these areas annually for hunting, hiking, and viewing native wildlife such as bison, and I intend to continue to visit them annually, as they are close to my home and important places to me.
16. When the agencies slaughter bison, haze bison, and take other actions to reduce bison populations and restrict their access to needed habitat, my interests are harmed. My interests and the benefits I gain from watching bison in their native habitat will continue to be harmed by

the agencies' participation in and implementation of the Interagency Bison Management Plan and related bison management decisions and actions, and decisions and actions to manage National Forest lands for domestic cattle to the exclusion of native bison. Right now, the agencies do not even know – or at least have not made public such information – what a viable population of bison on the Gallatin National Forest would be, whether their actions are impairing or negatively impacting bison and other resources, and whether the bison populations can be conserved for future generations under the IBMP management.

17. I have participated in this issue for many years, in efforts to make sure the agencies consider my concerns and protect viable populations of native bison on public lands. For example, I have written numerous letters to the editor, opinion articles, and other written pieces about the continued plight of the bison and the need to restore them on public lands. I also regularly comment on IBMP actions and decisions, and other related actions. For example, I contacted the Region One Forest Service Forester in February, 2010 to request that the Forest Service designate bison as a sensitive species. I also submitted comments to the Montana Fish, Wildlife and Parks department in October, 2008 regarding their proposal to enter an agreement with the Royal Teton Ranch that would perpetuate invasive bison management. I regularly attend IBMP meetings in an effort to make my concerns known to the agencies, although they do not appear to respond in any meaningful way.

18. I have observed bison using or attempting to access and use portions of the Gallatin National Forest and other habitat outside YNP for

many years. I specifically witnessed bison on the Gallatin National Forest in the late 1980s and early 1990s, during the time the Gallatin National Forest was preparing its Forest Plan to guide management on the Forest. I have witnessed bison migrate to and attempt to use areas of habitat including Tepee Creek, the Taylor Fork, Horse Butte, Eagle Creek, Casey Lake, Little Trail Creek, and the Deckard Flats.

19. Based on my observations of bison using Gallatin National Forest lands, and management actions by the federal agencies and the State of Montana, I believe the bison would continue using and benefit from using these lands if the federal agencies would manage the bison so that they could access year-round habitat and sustain viable populations both inside and outside the boundaries of Yellowstone National Park.

20. The harms to my interests would be redressed by a favorable ruling from this court, which would require the agencies to examine and disclose the impacts of their actions on bison and other species, and that would require the agencies to make sure bison can access suitable habitat year-round, and that bison are managed to protect and maintain viable populations both inside Yellowstone National Park, and on surrounding habitat including important habitat on the Gallatin National Forest.

Executed on 23 June, 2010.

  
\_\_\_\_\_