

FREEDOM OF INFORMATION APPEAL

FOIA APPEAL OF THE DEPARTMENT OF INTERIOR'S FEE WAIVER DENIAL  
FOR BUFFALO FIELD CAMPAIGN

FILE Control Number OS-2005-00358

GAO-FEIS References to the Royal Teton Ranch, Darrell Geist and  
Dan Brister Buffalo Field Campaign, June, 2005

This document summarizes the findings of an electronic search of  
the Royal Teton Ranch found in the GAO report *WILDLIFE  
MANAGEMENT Negotiations on a Long-Term Plan for Managing  
Yellowstone Bison Still On-going* and the government's *Record of  
Decision and Final Environmental Impact Statement for a Bison  
Management Plan for the State of Montana and Yellowstone  
National Park.*

The Department of Interior argued that the records we requested  
"do not, to our satisfaction, contribute to public understanding  
of Government operations and activities." And that furthermore,  
we "fail to establish how the release of information currently  
[sic] in the public domain will contribute to the public's  
understanding of the operations or activities of the  
Government."

The records requested on the Royal Teton Ranch would shed light  
on the public's understanding of the Government's operations and  
activities in two significant ways:

1) The government commitments made in these land planning and  
wildlife management agreements is still an on-going concern of  
the public who financed the purchase of the Royal Teton Ranch  
lands and who continue to pay for implementation of the  
Interagency Bison Management Plan. Disclosing current and past  
records provide a way for the public to learn how the government  
is following-up and monitoring its obligations to the land and  
native wildlife, and how it is representing or fulfilling the  
public interests made in each of these agreements.

2) The records requested of the Department of Interior *from  
January 1 1998 to current* would allow the public to  
independently assess and monitor the public interest and  
wildlife habitat values for which the government has an on-going  
public trust responsibility. What information is present in  
Department of Interior's records – the records we seek – is more  
comprehensive, informative and up-to-date than what is currently

in the public record about the Royal Teton Ranch land conservation agreement.

There is very little information in the public domain, including on Department of Interior's web site, that would be as inclusive and informative as the project records we seek. A search of Royal Teton Ranch and Devil's Slide on the Department of Interior's website revealed one relevant record not in our possession:

[http://www.firstgov.gov/fgsearch/index.jsp?rn=169&in0=domain&dom0=www.doi.gov+www.doi.gov+www.blm.gov+www.usbr.gov+www.mms.gov+www.nbc.gov+www.nps.gov+www.osm.gov+www.fws.gov+www.usgs.gov&parsed=true&mw0=Royal+Teton+Ranch&x=28&y=14&the\\_select=](http://www.firstgov.gov/fgsearch/index.jsp?rn=169&in0=domain&dom0=www.doi.gov+www.doi.gov+www.blm.gov+www.usbr.gov+www.mms.gov+www.nbc.gov+www.nps.gov+www.osm.gov+www.fws.gov+www.usgs.gov&parsed=true&mw0=Royal+Teton+Ranch&x=28&y=14&the_select=)

<http://www.firstgov.gov/fgsearch/index.jsp?nr=10&mt0=null&ms0=should&mw0=Devil%27s+Slide&in0=domain&dom0=www.doi.gov+www.doi.gov+www.blm.gov+www.usbr.gov+www.mms.gov+www.nbc.gov+www.nps.gov+www.osm.gov+www.fws.gov+www.usgs.gov&submit=Submit&db=www&st=AS&rn=169&parsed=true>

Even a search of Google for Royal Teton Ranch US Department of Interior turned up but one relevant record that we've requested from the agency under the Freedom of Information Act:  
<http://www.doi.gov/iga/8-21sup.htm> (See enclosure: White House, Office of the Press Secretary Press Release PRESIDENT CLINTON AND VICE PRESIDENT GORE: PRESERVING AMERICA'S LANDS LEGACY, August 21, 1999).

In sum, meaningful and significant information is available, the public's understanding can be enlightened, and questions that we have raised in the public interest, can only be answered by disclosing Department of Interior's project record on the Royal Teton Ranch and Devil's Slide land conservation agreements.

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**An electronic search for all references to Royal Teton Ranch found in the November 1999 GAO report *WILDLIFE MANAGEMENT Negotiations on a Long-Term Plan for Managing Yellowstone Bison Still On-going*, is included here:**

In the long term, the preferred alternative also proposes to complete the acquisition of additional winter range for the bison north of the park boundary in the Royal Teton Ranch. The majority of this acquisition has already been completed. PAGE 15

The interagency team also pointed out that some concerns about bison management have changed since the draft EIS was published. For example, two phases of an agreement to acquire portions of the Royal Teton Ranch, a 12,000-acre ranch adjacent to the north entrance of the park, have been completed. This agreement, among the Forest Service, the Rocky Mountain Elk

Foundation, and the Church Universal and Triumphant, involves the exchange or purchase of land and easements. The Department of the Interior has also become a partner in the project by contributing Land and Water Conservation Funds for part of the acquisition. According to the interagency team, this land provides a critical wildlife migration corridor and winter range for many species, including bison. PAGE 25

Appendix I Comparison of the Key Elements of the Proposed Bison Management Plans (found at PAGES 37-39) includes Land or Easement acquisition in a comparison of alternatives analyzed but does not specifically reference the Royal Teton Ranch.

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**An electronic search for references to Royal Teton Ranch found in the December 20, 2000 RECORD OF DECISION and the August 2000 three-volume FINAL ENVIRONMENTAL IMPACT STATEMENT AND BISON MANAGEMENT PLAN FOR THE STATE OF MONTANA AND YELLOWSTONE NATIONAL PARK is included here:**

**RECORD OF DECISION**

The U.S. Forest Service, Gallatin National Forest, manages lands and interest in lands newly acquired north of Reese Creek adjacent to Yellowstone National Park. These acquired lands and conservation easement lands benefit wildlife generally, including bison, and reduce the complexity of managing wildlife habitats north of the park. The federal agencies anticipate future discussions with the Royal Teton Ranch to develop a bison management plan for the Royal Teton Ranch that is consistent with the decision in this document. PAGE 6

Recently, the U.S. Departments of the Interior and Agriculture purchased some of the lands and acquired easements on other lands north of this boundary. The Gallatin National Forest now manages the purchased lands and easements. Step Two would begin when a pre-existing private cattle lease on the RTR lands terminates (anticipated in the winter of 2002/2003). PAGE 12

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. The agencies will allow seronegative bison to occupy these lands during the winter under certain conditions. Initially, the agencies will allow up to 25 seronegative bison outside the park in the northern boundary area. When the agencies are confident they can manage these bison, they will tolerate up to 50 bison outside the park in the Reese Creek area. Again, when the agencies agree they have adequate information and ability to manage 50 bison in this boundary area, the number will increase, this time up to 100 bison. This increase could take place in a single winter, or be spread over a number of winters, depending on the experience gained by managing bison outside the boundary of the park, weather, and the number of bison that chose to emigrate in any given winter. The agencies will allow the seronegative bison as well as other bison that agency personnel cannot capture but that are tolerated to remain outside the park until April 15. The number and distribution of bison on the north side, as well as most impacts associated with these factors (such as viewing, cultural significance of the herd, impacts to grizzly bears, livestock operations, etc.) could at times be similar to those described for alternative 3. Population control would limit impacts in some cases, so that they would be less beneficial (such as for

viewing or grizzly bears) or less adverse (livestock operations) than for alternative 3. PAGE 12

15. In Step 1 (expected winter 2000/2001 through winter 2001/2002), while cattle graze Royal Teton Ranch (RTR) lands under a private grazing lease, NPS would continue to monitor bison from approximately November 1 to April 30 within YNP and use hazing within YNP to prevent bison movement north onto private and public lands in the Reese Creek area. If hazing is unsuccessful, the NPS will operate the Stephens Creek capture facility and capture all bison attempting to exit the Park in the area. The agencies will test all captured bison, send seropositives to slaughter, and temporarily hold up to 125 seronegative bison at the Stephens Creek capture facility. Vaccination eligible bison that are captured would be vaccinated with a safe vaccine. Once the capacity of the capture facility is reached, all additional bison attempting to exit YNP would be removed at the Stephens Creek facility (seropositive bison would be sent to slaughter and seronegative bison may be sent to a quarantine facility, if available, and, if not available may be sent to slaughter or be removed for jointly approved research. The seronegative bison held at the facility will not be retested and will be released to the Park in the spring. Bison outside the Park that cannot be hazed back into the Park and evade capture would be subject to lethal removal. Every effort will be made to avoid conducting necessary lethal management actions on RTR ranch lands. The agencies, with the Forest Service as the lead agency, will initiate an evaluation of potential sites for a capture facility in Zone 2. (See Paragraph 19.) PAGE 27

17. Step 2 begins (expected winter 2002/2003) when cattle no longer graze private lands outside YNP on portions of lands known as the RTR in Zone 2 during the winter.

a. In Step 2, as in Step 1, NPS would continue to monitor bison within YNP. Bison attempting to exit the Park in the Reese Creek area would be captured and tested at the Stephen's Creek capture facility. Seropositive bison would be sent to slaughter and a limited number of seronegative bison, including seronegative pregnant bison (see paragraph 18), will be released. Vaccination eligible bison that are captured would be vaccinated with a safe vaccine. In Step 2, all released bison must remain in Zone 2 west of the Yellowstone River and South of Yankee Jim Canyon on lands controlled by the USFS and RTR. PAGE 28

19. During Step 2, the agencies will evaluate the most effective means to enforce the northern boundary between Zone 2 and Zone 3 at Yankee Jim Canyon, including considering the need, design, and location of a capture facility within Zone 2, most likely on Forest Service lands. The agencies will consult with RTR on the location of the capture facility. The purpose of such a facility in Zone 2 would be to enforce spatial separation between Zone 2 and Zone 3 when hazing or other management practices become ineffective or to capture bison over the tolerance limit (initially 25 and eventually presumed to be 100). Captured bison could be moved to Stephens Creek for holding, sent to slaughter, or to a quarantine facility, if available, or removed for jointly approved research. The agencies, with the Forest Service as the lead agency, will complete any necessary NEPA analysis for the capture facility. PAGES 29-30

b. Zone 2 – Area north of park boundary in the Reese Creek area, West of Yellowstone River, and south of Yankee Jim Canyon where bison will be managed for: i) spatial and temporal separation; ii) lethal removal for private property concerns; iii) bison tolerance limits (up to 100); and, iv) bison

park population size (3,000). Each of these triggers for management actions is independent (e.g., removing bison to maintain the 100 bison tolerance limit does not depend on the overall bison population size). Management actions within Zone 2 could include tolerating, hazing, capturing and testing, vaccinating, removing bison to quarantine, removing for use in jointly approved research and lethally removing bison as set forth in this plan. During steps 2 and 3 as bison approach Cinnabar Mountain/Corwin Springs bridge area their behavior and movements will be monitored by the agencies to assure all bison remain west of the Yellowstone River at all times. During Steps 2 and 3 as bison approach the Cutler Lake/Cutler Meadows area they will be increasingly monitored to assure all bison remain west of the Yellowstone River and south of Yankee Jim Canyon. As bison move towards Yankee Jim Canyon they may be hazed or captured to reduce the threat of movement beyond Yankee Jim Canyon. Hazing and capture may include moving bison away from the Yankee Jim Canyon area to reduce the potential for bison to leave Zone 2. See paragraph 24 for further discussion regarding RTR lands within Zone 2. PAGES 30-31

24. RTR Lands: When bison will be allowed to be on RTR lands as set forth herein, it is agreed that active bison management including vaccination shall not routinely take place thereon. When exigencies require management actions, the agencies shall notify RTR of the contemplated action, and seek RTR approval therefore, which shall not be unreasonably withheld. Exigencies include actions to:

- (a) Protect life or property;
- (b) Address migrations of bison inconsistent with paragraphs 15, 17-20, and 25 outside the Park in the northern boundary area.
- (c) Haze bison back into the Park in the spring of each year;
- (d) Enforce spatial and temporal separation where necessary.

Lethal removal will not be routinely accomplished on RTR lands and shall require the same permissive procedures as set forth above.

The agencies intend to have as little bison management on RTR lands as possible. Nevertheless, the agencies may be required to take management actions on RTR lands as authorized under Montana or Federal law and the provisions of this plan.

In Step 1, the agencies will cooperate with RTR to develop a Bison Management Plan for the Royal Teton Ranch that is consistent with the provisions of this Joint Bison Management Plan. Should the Joint Bison Management Plan be altered, the agencies will cooperate with RTR to adjust the RTR Plan so that the RTR Plan will remain consistent with the Joint Bison Management Plan. Before the RTR Plan can be implemented, the state and federal agencies must approve the RTR Plan. PAGE 31

31. Management actions outside the Park will be jointly supported operations conducted by personnel assigned by Montana DOL and MFWP, USFS, APHIS, and NPS. The in-Park vaccination program will be implemented by personnel from NPS. The agencies, and RTR ranch where appropriate, will enter into the appropriate memorandum of understanding to describe specific commitments of personnel to all management actions, delineate operation details for implementation of the plan, and describe reporting requirements for the elements described in the Plan, including those for the implementation of the vaccination program. In addition the agencies will prepare any necessary memorandum of agreement for the funding of all management actions. PAGE 32

Response: As noted in the FEIS (see, for example, vol. 2, p. 93), 3,000 bison was identified in the NAS report as the level above which the frequency and size of bison movements to areas outside the park would increase. Although it is true that environmental and other conditions in the analysis area are variable and other research suggests the population in the park would likely fluctuate between 1,700 and 3,500, the agencies are trying to balance factors such as natural regulation and maintaining ecosystem processes, which contribute to the wildness of the herd, with protection of Montana cattle from the risk of transmission. The agencies have adopted 3,000 as a spring population limit, maintained through culling of bison as they attempt to exit the park, to both maximize the effects of ecosystem processes inside the park and help keep relatively large-scale migrations from occurring. Additionally, the agencies recognize that severe winter weather conditions, including deep, crusted snow, can occur on bison winter ranges within the park. These conditions can force larger numbers of bison to lower elevation winter ranges outside the park. Tolerance of up to 100 bison on public lands in the west boundary area and up to 100 bison on public and Royal Teton Ranch lands north of the Reese Creek boundary also provides managers with flexibility in managing bison. In addition, the final plan outlined in the ROD proposes mitigation measures that emphasize non-lethal measures to preserve the bison population. The mitigation measures require the agencies to consider emphasis of non-lethal management measures when the bison population reaches 2,300. If the bison population reaches 2,100, the agencies are required to increase implementation of non-lethal management measures. As to the grooming of trails, the agencies do not believe the evidence supports the idea that closing them will preclude bison from entering Montana. PAGE 52

The livestock permit on the Horse Butte allotment is due for consideration and probably reissuance in 2001. The Gallatin National Forest will complete a NEPA process tiered to the bison management EIS before it issues a permit. Additionally, the Forest Service acquired most of the Royal Teton Ranch lands under a Congressional mandate and with Land and Water Conservation Fund dollars and, therefore, did not require a NEPA process. Part of the forest's future land acquisition includes a land exchange with Royal Teton Ranch, which requires a NEPA process currently in progress. PAGE 61

#### **VOLUME I**

North of Yellowstone National Park, the largest of the livestock operations is in the Reese Creek area on the Royal Teton Ranch. It has about 100 cow-calf pairs on unallotted private land, in addition to 150 on allotted private and public land. PAGE xxxiii

Bison migrate from Yellowstone National Park during the winter into Montana in five general areas (also see Bison Winter Movements map). During some years, substantial numbers of bison move north across the Reese Creek boundary of Yellowstone National Park and onto adjacent private land along the Yellowstone River valley near Gardiner (the Gardiner Valley). These lands are leased to cattle operators who graze livestock year round. Bison have historically used the Gardiner Valley, and would likely migrate much farther north without agency or other controls. Through land purchase, exchange, and conservation easements, a portion of this land in the Reese Creek area has been made available for wildlife winter range (see Royal Teton Ranch Land Conservation Project map). PAGE 30

In addition to the objectives, the agencies have also recognized, as noted in the "Need for Action" section, that Yellowstone National Park is not a self-contained ecosystem for bison. Lower elevation range could provide areas

for bison to winter adjacent to the park as well as additional management options. Three of the alternatives (2, 3, and 7) analyzed in this environmental impact statement include provisions for such possible acquisitions, and the modified preferred alternative already includes acquisition of lands to the north of the Reese Creek boundary on the Royal Teton Ranch (see Royal Teton Ranch Land Conservation Project map). Although the agencies agree any acquisition of grazing rights, easements, or property from willing sellers could be by a public entity, Yellowstone National Park has no plans for expansion of the park boundary. PAGE 45

Alternatives 2, 3, 7, and the modified preferred alternative provide for agencies to pursue purchase of property or conservation easements from willing sellers for bison winter range and other bison management purposes and activities. Since the completion of the Draft Environmental Impact Statement, 4,623 acres in the impact area have been acquired through purchase from Royal Teton Ranch, with an additional 1,508 acres permanently protected from development through a conservation easement. Discussions and negotiations for additional lands are continuing. A primary purpose of acquiring these lands is their use as wildlife winter range, including for bison (see volume 2, "Bison: Special Management Area" for more information). PAGE 49

Private property (the Royal Teton Ranch) abuts the Yellowstone National Park boundary at Reese Creek. Through a lease with property owners, approximately 250 cow-calf pairs graze in the Gardiner Valley during the winter from the Corwin Springs bridge for about 8-9 miles to the north end of the property just south of Yankee Jim Canyon (see alternative 1 map). A capture facility inside the park at Stephens Creek is within 2 miles of Reese Creek, and operates from November 1 to April 30. If bison approach the northern boundary at Reese Creek, agency personnel would first attempt to haze bison back into the park to reduce the need for lethal removal. For those bison that could not be hazed, wing fences and agency personnel would guide bison toward the capture facility inside the park for capture and testing. NPS personnel would shoot bison that could not be hazed or captured at the park boundary. PAGE 104

"Phase 2. There is no change in operation of the Stephens Creek facility. When current cattle leases end on the Royal Teton Ranch the agencies would experiment with test negative, vaccinated bison to assess the "holding capacity" management needs. This would be done through creation of zones. (Note criteria listed under Special Management Areas, Phase 2.) When adequate controls and an agreed upon number is reached, vaccinated bison would be allowed onto the property until the holding capacity is reached. If this occurs then all bison would be tested and seropositive removed. (See alternative XX map.)" PAGE 202

Cattle operations on public and private lands are located north and northwest of the towns of West Yellowstone and Gardiner. Near West Yellowstone, there are five cattle allotments on public land and a few private holdings in the Hebgen Lake area (see Bison Winter Movements map). Northwest of Gardiner, several operators run livestock on public allotments on the Gallatin National Forest, and at least one large operator (and several smaller) on private lands (see "Livestock Operations" chapter). In some alternatives, the boundary on the west side extends as far north as Buffalo Horn Creek. Extensive private land holdings lie north of this boundary and out of the analysis area. Cattle operations in the West Yellowstone area and most of those in the Gardiner area are predominantly summer only. Cattle are

maintained on a year-round basis on the privately owned Royal Teton Ranch adjacent to the park's Reese Creek border. PAGE 276

In the Yellowstone area, the livestock industry is composed mainly of cow-calf operations with the exception of a few sheep producers. Privately owned land and leased public land grazing allotments provide summer pastures. After the first snowfall, or at the end of the allotment period in the fall, most cattle are returned to their home base, usually elsewhere in Montana or Idaho where snow depths are more shallow and hay sources are more accessible. Near Yellowstone National Park in the winter, the snow is too deep and the winters are too cold for cattle to graze, and extra feed is required to maintain their body heat. Cattle under lease are fed hay and retained at Royal Teton Ranch (adjacent to the park's northwestern boundary) year-round. PAGE 304

Tables 22-25 represent the estimated number of cattle currently (1999) being grazed on private and public lands north and west of the park boundary. The tables also show the areas where bison might occupy lands and the number of cattle that may be affected. See the maps showing private and public lands where cattle are currently grazed. For maps which show the private land holdings, please refer to tables 22 and 24 for the landowner designation. A total of 390 cattle on the northern boundary occupy lands where bison may potentially range if allowed. In areas where cattle are present in the winter, bison are not allowed.

NOTE: After April 2002, the number of cattle on the RTR Trestle Ranch and the Park and Sentinel Butte public allotments could change to zero cattle per the conservation easement agreement under the Royal Teton Ranch land purchase. Based on the current Green Lake allotment boundary, bison could potentially use less than approximately 100 acres of that allotment near Yankee Jim Canyon due to topography. PAGE 305

The government sector would incur costs associated with any additional purchase of winter range. Although no appraisals have been conducted of lands under consideration, it is estimated by the U.S. Forest Service that purchase of affected private lands, not including holdings in the Denny Creek/South Fork area or the already secured Royal Teton Ranch, would require about \$15 million. Easement costs were not estimated but would likely be less than outright purchase. PAGE 483

The estimated nonmarket value of winter range expansion under alternative 2 is conservative in two respects. First, the nonmarket value of \$4.43 million is an estimate for acquiring only the Royal Teton Ranch lands and their associated winter range capacity. Alternative 2 actually proposes increasing winter range beyond the Royal Teton Ranch acquisition, and therefore, a higher nonmarket value of winter range expansion would be expected. Second, if the nonmarket valuation estimate from the national population had been reliable, the aggregate nonmarket values from this population would have been much greater in comparison to the current estimate and would easily justify the purchase price for the proposed winter range expansions. PAGE 486

Nonmarket benefits for acquiring winter range have been estimated, as discussed in "Affected Environment." Acquisition is proposed at several levels that vary with each alternative. The first level uses a total budget of \$29 million in the Draft Environmental Impact Statement and was primarily intended to purchase the Royal Teton Ranch and possibly other lands north of Reese Creek. The lands targeted in this budget have now been acquired; these costs are sunk costs and do not appear as costs in tables 64-72. The nonmarket present value of benefits of this action is estimated at \$4.2



million, assuming that the lands begin to serve their purpose as winter range in the year 2002. A higher level of acquisition has also been proposed (total budget of \$43 million or \$15 million net of the sunk costs). The benefits of this increment of winter range has not been estimated. It appears that neither of these levels of acquisition would be justified based on nonmarket values attributable to Yellowstone National Park visitors and regional (Idaho, Montana, and Wyoming) residents. However, if reliable estimates were developed for the national population, the estimated nonmarket benefits would likely exceed costs. PAGE 536

## **VOLUME II**

**Comment:** A quarantine facility should be placed in various locations. Some commenters wanted it far from Yellowstone National Park, some within the Greater Yellowstone Area, some inside the park, some on tribal lands, some adjacent to the park, some away from critical wildlife habitat or migration routes, and some requested specifically not on Royal Teton Ranch land adjacent to the park.

**Response:** The location of the proposed bison quarantine facility has not yet been determined. The construction and operation of a quarantine facility on federal land or built with federal money would be subject to a NEPA impact analysis, complete with public involvement, before any decisions on location or design were made. PAGE 113

**Comment:** Acquisition of private land north of Yellowstone National Park is expensive and time consuming.

**Response:** Alternatives 2, 3, 7, and the modified preferred alternative provide for agencies to purchase private lands north of the park boundary from willing sellers (see response above to issue 2A). Currently officials from the U.S. Department of the Interior, the U.S. Department of Agriculture the Forest Service), and the Rocky Mountain Elk Foundation (a private organization) have worked with Royal Teton Ranch to purchase lands and conservation easements north of the park boundary. The final purchase of lands and conservation easements was completed August 31, 1999, at a total price of approximately \$13.5 million. The modified preferred alternative identifies acquisition through purchase or easements of additional winter range north of the park boundary at Reese Creek, west of the Yellowstone River. It also contemplates the acquisition of grazing rights and the subsequent absence of cattle between Reese Creek and Yankee Jim Canyon and the tolerance of a limited number of bison on conservation easements and private lands based on willing seller negotiations with the landowner. Since the Draft Environmental Impact Statement was completed, approximately 6,131 acres in the impact area have been acquired through purchase or easement on lands north of the park's Reese Creek boundary. Discussion and negotiations on additional acquisitions through land exchange are ongoing. PAGE 124

**Comment:** Expand Yellowstone National Park to include bordering public lands. Use ecosystem boundaries, not artificial park boundaries, as a goal, and buy all available land to augment Yellowstone National Park boundaries. Utilize a public fund drive or National Park Service funds to purchase additional lands.

**Response:** Expanding park boundaries would require congressional legislation and, as stated in the final environmental impact statement, Yellowstone National Park has no plans to expand park boundaries" (see volume 1, "Purpose of and Need for Action: Objectives and Constraints – Objectives in Taking

Action." However, several alternatives propose the creation of SMAs, and alternatives 2, 3, 7, and the modified preferred alternative propose acquisition through purchase of additional lands or easements from willing sellers. The agencies did agree that public entities could participate in acquiring grazing rights, easements, or property from willing sellers. Currently officials from the U.S. Department of the Interior, the U.S. Forest Service, and the Rocky Mountain Elk Foundation (a private organization) have worked with Royal Teton Ranch to purchase lands and conservation easements north of the park boundary. Final purchase of lands and conservation easements was completed August 31, 1999, at a total price of approximately \$13.5 million. Since the Draft Environmental Impact Statement was completed, approximately 6,131 acres in the impact area have been acquired through purchase or easement on lands north of the park's Reese Creek boundary. Discussion and negotiations on additional acquisitions through land exchange are ongoing. The modified preferred alternative identifies acquisition through purchase of easements on additional winter range north of the park boundary at Reese Creek, west of the Yellowstone River. It also contemplates the acquisition of grazing rights and the subsequent absence of cattle between Reese Creek and Yankee Jim Canyon and tolerance of a limited number of bison on conservation easements and private lands, based on willing-seller negotiations with the landowner. PAGE 133

Comment: Land acquisition will not solve the problem if land managers give priority to livestock on newly acquired lands (as they do on currently held agency lands).

Response: The existing national forest grazing allotments north of Yellowstone National Park will continue into the future, with management consistent with the primary wildlife objectives and "on-off" dates established to eliminate conflict with wintering bison. However, temporary grazing on the acquired Royal Teton Ranch lands may be allowed until a record of decision is signed selecting an alternative for bison management. If it is decided to have an SMA in the area west of the Yellowstone River north of the park, the management of these lands would likely be consistent with the overall plan for bison management. There is the potential for land acquisition west of the park, north of West Yellowstone near Duck Creek. The parcel being considered would be very unlikely to have livestock grazing as one of its uses due to the location and nature of the parcel. PAGE 220

Comment: The Royal Teton Ranch land exchange (i.e., loss of the Mol Heron drainage) could be harmful to the grizzly bear.

Response: This issue is outside the scope of the current analysis. Although the fee-title purchase of the Royal Teton Ranch exchange for phases I and II is complete, the exchange is undergoing a NEPA analysis. Any impacts from this potential exchange on grizzly bears would be analyzed pursuant to the National Environmental Policy Act prior to a decision to go forward with the exchange. The U.S. Forest Service will also consult with the U.S. Fish and Wildlife Service under the Endangered Species Act regarding potential effects of the land exchange proposal on the grizzly bear and other threatened and endangered species. The current exchange proposal is balanced in terms of acres of grizzly bear habitat to be acquired and acres to be exchanged in the recovery zone. Also, as a condition of the exchange, the U.S. Forest Service will impose deed restrictions or similar binding protection measures on national forest section 16 in Mol Heron Creek to provide long-term protection for Yellowstone cutthroat trout and grizzly bear habitat. PAGE 220

Comment: Can we allow bison to roam near Yellowstone (create SMAs, buffer zones, safe zones, or protected areas) by acquiring additional private lands into federal ownership or getting them under conservation easements? Comments were specific and favorable to acquiring the Royal Teton Ranch properties.

Response: The U.S. Forest Service currently allows bison to roam on Gallatin National Forest lands adjacent to Yellowstone National Park. Other agencies that manage livestock disease have defined locations and times at which bison are not allowed to be in Montana on the national forest or private land. Land acquisitions and easements have been and are being pursued that would have the primary purpose of benefiting wildlife on their winter ranges. The following definitions will help explain some items in this response.

Land Purchase – Private lands are purchased by the U.S. Forest Service from willing landowners at appraised value, using Land and Water Conservation Funds appropriated by Congress for this purpose. Lands purchased in fee title become public lands, managed by the U.S. Forest Service as part of the national forest system.

Conservation Easement – A conservation easement is a permanent grant of certain property rights by a private landowner to the U.S. Forest Service, other agencies, or to a qualified conservation organization. Conservation easements are designed to permanently protect existing values, including scenic, open space, wildlife habitat, and/or agricultural values, by restricting other land uses such as commercial or residential development. Lands placed under conservation easement remain private lands and generally are not open to public recreational use. Conservation easements may be purchased at appraised value, or may be donated by the landowner.

Land Exchange – Private lands acquired by the U.S. Forest Service in exchange for national forest lands of approximately equal appraised value. Land exchanges are typically developed to improve public/private landownership patterns, protect wildlife habitat, and improve recreational opportunities. Land exchanges are subject to public comment and environmental analysis under the National Environmental Policy Act, the Endangered Species Act, and other federal laws and regulations.

In phase I of the Royal Teton Ranch purchase (completed in February 1999), the Rocky Mountain Elk Foundation acquired approximately 2,467 acres from the landowner, the Church Universal and Triumphant. The U.S. Forest Service then purchased these lands from the Rocky Mountain Elk Foundation. The phase I lands include the Bassett Creek inholding in the Absaroka – Beartooth Wilderness (151 acres) and 2,316 acres of Royal Teton Ranch lands west of the Yellowstone River between Yankee Jim Canyon and Cinnabar Mountain. In phase II of the Royal Teton Ranch purchase, completed in August 1999, the U.S. Forest Service acquired another 2,156 acres of Royal Teton Ranch land. The phase II lands are west of the Yellowstone River adjacent to the park boundary (near Cinnabar Mountain) and at Cutler Meadows. An additional 1,508 acres of winter range habitat were permanently protected by purchasing a conservation easement in the Devil's Slide area. The phase II acquisitions were again facilitated by the Rocky Mountain Elk Foundation.

A proposed land-for-land exchange between the Church Universal and Triumphant and the U.S. Forest Service, currently being evaluated under the NEPA process, would result in public acquisition of an additional 1,002 acres of Royal Teton Ranch lands in exchange for 998 acres of national forest lands. Most of the Forest Service and Royal Teton Ranch exchange lands are located in the Mol Heron Creek drainage, outside of the primary winter range

corridor. The acquired lands and the conservation easement will increase the amount of acreage of winter range available to bison outside the park. Further efforts are being made to acquire lands from willing sellers. Under alternatives 2, 3, and 7, these lands may become SMAs (DEIS, p. viii). Under alternatives 3 and 7 bison may be hunted in certain areas outside of the park (DEIS, table 10). Hunting of big game animals in the state of Montana is under the jurisdiction of the state and would need approval of the legislature. PAGES 221-222

Comment: A variety of methods for land acquisition or easements were suggested, including working with groups like The Nature Conservancy or Rocky Mountain Elk Foundation, attaining the land from willing sellers, getting the land through eminent domain, seeking donations to pay for the land, etc.

Response: Funding for the Royal Teton Ranch land acquisition was received through the Federal Land and Water Conservation Fund, which was authorized by the Congress in 1998 and 1999. The land purchases and conservation easement acquisitions are being facilitated by the Rocky Mountain Elk Foundation. The Rocky Mountain Elk Foundation contributes substantial staff time and private funding to the project. Other conservation partners and agencies, including the state of Montana, are encouraged to assist in this ongoing effort. Other willing sellers have, and will continue to be, contacted by the U.S. Forest Service and/or the Rocky Mountain Elk Foundation. This effort has been ongoing since the Northern Yellowstone Elk Project began in 1988. Eminent domain (condemnation) is not being used because the federal government prefers to acquire private lands from willing sellers. PAGE 222

Three areas were assessed for carrying capacity. It was decided to delineate the areas actually known to be used by bison in the winter, i.e., either used consistently in winter by bison or used occasionally in years when weather and high population numbers combine to push bison out of the park. These areas largely coincide with the dotted areas on the maps in the Draft Environmental Impact Statement (see the Alternative 2 map on p. 69 of the DEIS, for example), except for the area near Hebgen Lake, where bison are known to pass through but not to spend significant time due to lack of forage being available above the snow level. Private land was not excluded from the acreage potentially providing forage to bison in the winter. This is because few private lands actually prevent bison from physical entry in the winter (although bison will be removed at a landowner's request). In addition, much of the Royal Teton Ranch land in the Reese Creek SMA has recently entered federal ownership; only a small part of the Eagle Creek SMA where bison actually winter is privately owned; and the major private acreage in the Horse Butte SMA was primarily in the Duck Creek area that does not exclude bison. PAGE 223

Comment: The proposed quarantine facility being located on lands that belong to Royal Teton Ranch would significantly disturb wildlife, impair winter range, and harm American Indian cultural resources. Response: The location of a quarantine facility, should it be part of the selected alternative, would be unknown until a subsequent NEPA process is completed. This process would define variables such as design, size, and distribution of live bison completing quarantine as well as location. If ground disturbance or other construction-related impacts to cultural resources are anticipated, a site-specific inventory would be completed to determine appropriate mitigation. PAGE 240

Comment: Commenters had specific questions and concerns regarding Draft Environmental Impact Statement tables 46 and 47, stating these tables were

inaccurate, inadequate, and confusing. They wanted these tables revised to be more useful to the public and decision makers as follows:

2. Identify how land acquisition costs were calculated, and account for the money already spent for the Royal Teton Ranch since the Draft Environmental Impact Statement was published.

Response: 2: The costs for the land acquisition described in alternative 7 have now been expended. PAGES 335-336

Comment: Commenters expressed opposition to the provision in alternative 7 for creating a quarantine facility in an area (current or former Royal Teton Ranch land) that is prime winter range and an important movement corridor for bison, elk, bighorn sheep, and antelope. If quarantine facilities are to be used, they should be constructed at a location that would not impact migration or habitat use by other wildlife species. Also the large amount of traffic and human activity associated with a quarantine facility would cause disturbance to a wide variety of wildlife species.

Response: It is assumed that the commenter may be referring to the suggestion in alternative 7 that the capture facility currently located at Stephens Creek could be relocated farther north in the area between the park boundary and Yankee Jim Canyon (DEIS, p. 104). The capture facility, used only in winters during which it is necessary to conduct bison management operations of that nature, is different than the proposal in alternative 7 and others to establish a quarantine facility where seronegative bison could be sent prior to being provided to tribes or other public bison herds (refer to "Quarantine" under alternative 7 description). The location of the proposed bison quarantine facility has yet to be determined and therefore was not specified in any alternative. The construction and operation of a quarantine facility on federal lands or using federal money would have to comply with NEPA requirements in a separate environmental assessment or environmental impact statement process. Potential impacts to wildlife species as a result of the construction, presence, or operation of the quarantine facility would be analyzed and considered at that time. The placement and operation of any bison management facility (capture or quarantine) in the area between the park boundary and Yankee Jim Canyon would have the potential to impact migrating and wintering elk, pronghorn, mule deer, and bighorn sheep, and those impacts would have to be analyzed accordingly. PAGES 404-405

**VOLUME III ---**

No references found