

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

March 21, 2023

Secretary Deb Haaland
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Sent via e-mail only to: cristina_villa@ios.doi.gov
snantha_alonso@ios.doi.gov

Re: Secretary's Order 3410: Restoration of American Bison and the Prairie Grasslands

Secretary Haaland:

For decades, the State of Montana has been a stalwart steward of bison within its borders. Whether those bison move into Montana from Yellowstone National Park (YNP), are part of conservation herds, or are part of agricultural operations, Montana has a comprehensive framework addressing their management. To be clear, Montana has managed these animals in its sovereign capacity. As circumstances require, Montana has also partnered closely with federal agencies, including those agencies at the Department of the Interior (DOI), and tribal entities to ensure the responsible management of these animals.

Given Montana's extensive history in managing bison, you can imagine my dismay in receiving Secretary's Order (S.O.) 3410, which appears to be unlawful and which attempts to undercut state primacy in managing bison. Specifically, I take this opportunity to register my concern over the following components of S.O. 3410.

- **The "Bison Working Group" (BWG) created by the order excludes any meaningful state participation.**

Assuming S.O. 3410 is even a proper exercise of authority, *see infra* p. 4, I have reviewed the BWG charter and membership structure, and there is minimal, *if any*, opportunity for states like Montana to participate.

The BWG Leadership Team is comprised of five federal agency representatives and a Tribal leader. Members of the Leadership Team are the only voting members of the BWG. The BWG's general membership consists of 30 additional federal employees invited by the Leadership Team.

States are denied an opportunity to participate as either a voting or non-voting member of the BWG. States do not even have an opportunity to seek cooperating agency status with the working group. Non-voting, cooperator status is by invitation only, and is reserved for other federal employees, Intertribal Buffalo Council (ITBC) designees, Native American Fish and Wildlife Society designees, and employees of federally affiliated organizations.

There is a chance that a state employee could be invited as a non-voting cooperator, so long as that employee is the designee of the Western Association of Fish and Wildlife Agencies and from a state in which “wild bison” are found. However, there is no guarantee that such an invitation would issue, or that it would be extended to Montana. Similarly, the charter presupposes that state fish and wildlife agencies are the entities with the only relevant expertise in bison management which, in the case of Montana, is not accurate.

There is also a chance that the leadership team could invite the State of Montana to “present and discuss collaboration and conservation” as a guest. Again, there is no guarantee that such an invitation would be issued.

S.O. 3410’s exclusion of the states, and specifically Montana, is unprecedented and unacceptable. Montana should not be relegated to optional “guest,” or even non-voting cooperator, status given that its experience in managing bison and working with multi-jurisdictional entities is unparalleled. Montana deserves a seat at the table, and its absence from the BWG creates nothing more than a federal echo chamber.

- **S.O. 3410 is this DOI’s most recent effort to marginalize and exclude Montana from bison management discussions.**

Over the last two years, Montana has made multiple requests to DOI agencies, seeking collaborative discussion in relation to 1) bison moving into Montana from YNP and 2) potential bison reintroduction on the C.M. Russell National Wildlife Refuge (CMR). Montana’s requests have been met with silence.

- *Interagency Bison Management Plan (IBMP)*

For over 20 years, the State of Montana has partnered with the National Park Service (NPS) in the IBMP. Developed as a product of Montana’s litigation against federal agencies, the IBMP has served to coordinate actions taken by sovereigns in relation to transitory bison dispersing from YNP. In January of 2022, the NPS issued a *Notice of Intent to Prepare an Environmental Impact Statement for a Bison Management Plan for Yellowstone National Park, Idaho, Montana, and Wyoming*, describing a series of management alternatives for analysis. Where Montana and DOI worked side-by-side to draft the original IBMP, Montana was not even consulted by DOI in the formulation of these new alternatives.

In the State’s February 28, 2022, comment on the notice, I asked that NPS withdraw the alternatives and work with Montana to develop management actions that were mutually acceptable. To date, I have received no written response to this request.

○ CMR

Unlike NPS' efforts relating to the IBMP, the U.S. Fish and Wildlife Service (USFWS) has at least made superficial efforts to include Montana in its planning endeavors on the CMR. In November of 2021, the University of Montana's Center for Natural Resources and Environmental Policy (CNREP), a contractor working on behalf of USFWS, contacted directors at various Montana agencies to "gain an initial understanding of stakeholder perspectives and interests" related to potential bison and bighorn sheep reintroduction on the CMR. While those Montana agencies met with CNREP and provided input, it was, and remains, incredibly concerning that Montana was deemed nothing more than an entity that "may be interested in or affected by any future management decisions on the refuge," and relegated to a 45–60-minute meeting.

In June of 2022, CNREP reached out again, this time on behalf of Paul Santavy, Project Leader on the CMR, asking for a meeting to explore how best to partner with Montana agencies on this issue. While Montana appreciated the inquiry, we stated that the appropriate first step in any relationship would be for Montana's agency directors to meet with Director Martha Williams. CNREP committed to taking the request to USFWS. To date, almost 9 months later, we have received no further correspondence from USFWS or CNREP.

Recently, Glacier National Park touted "the near certainty in the future of bringing wild bison back into the landscape...." True to form, there have been no discussions with the State of Montana about such action.

Montana is a sovereign entity that exercises full authority over the management of bison within its borders. The utter lack of meaningful engagement from USFWS and NPS, and now the issuance of S.O. 3410, seems to demonstrate DOI's ill-advised and predecisional commitment to forcing any bison agenda it sees fit.

- **DOI has an abysmal track record of "wild" bison management in the State of Montana.**

The first goal of the Bison Conservation Initiative (BCI) that the BWG seeks to achieve is "wild, healthy bison herds." S.O. 3410, Appx. 1 (§5). However, the federal government has failed to reach this goal with existing "wild" bison herds in Montana, specifically those in YNP.

In YNP's September 2022 population report to IBMP partners, the bison population in YNP was approximately 6,013. From June 2021 to Spring 2022, the population ranged from approximately 5,472 to 5,020. Approximately 60% of this herd tests positive for brucellosis exposure.¹ Brucellosis causes infected animals to abort and is of great concern to the State of Montana given that it is transmissible to cattle. It is because of brucellosis that any live bison transferred from

¹ <https://www.nps.gov/articles/brucellosis-yellowstone.htm#:~:text=About%2060%20percent%20of%20adult%20female%20bison%20in,not%20mean%20an%20animal%20can%20transmit%20the%20disease.>

the Greater Yellowstone Area must have successfully completed the Bison Conservation and Transfer Program (BCTP). While BCTP is a quarantine protocol to help ensure that bison leaving the Greater Yellowstone Area are brucellosis-free, it does nothing to treat the disease as it continues to persist in YNP. NPS makes no effort to reduce brucellosis prevalence in YNP bison, despite the existence of effective vaccine.

The bison in YNP are not only diseased, but have been allowed to reach populations that now imperil the YNP ecosystem. While YNP continues to perpetuate a narrative that it can support a bison population of more than 8,000², it does so in complete contradiction to science, which assigns the declining health of both YNP range and riparian areas to the excessive bison population.³

Given that the only wild bison population in Montana managed by the federal government is diseased and leading the nation's first national park into ecological crisis, what faith should Montana have in DOI's ability to achieve its stated goal? Why should states like Montana place their trust in DOI when they have failed to reach their objectives in the herds they now manage?

- **It is unclear under what authority the BWG is being formed.**

Section 1 of S.O. 3410 states that the order is issued under Section 2 of the Reorganization Plan No. 3 of 1950 (64 Stat. 1272) and "other applicable statutory authorities" which include "numerous ratified treaties and agreements between the United States and federally recognized Indian Tribes, along with the trust obligations owed by the United States to federally recognized Indian Tribes and their citizens." I have reviewed the cited provision of Reorganization Plan No. 3 of 1950 and find that it lacks any specific authority for the issuance of S.O. 3410. I would ask that you identify, specifically, what "other applicable" statutory authorities, treaties, and agreements you believe substantiate the order.

I thank you for your time and look forward to your response.

Sincerely,



Greg Gianforte
Governor

Cc: Congressman Bruce Westerman
Congressman Doug Lamborn
Congressman Rob Wittman

² 87 Fed. Reg. 4653, 4654 (Jan. 28, 2022).

³ Hunter, Harold E., *et al.* "Ecological Health of Grasslands and Sagebrush Steppe on the Northern Yellowstone Range." *Rangelands*, vol. 40, no. 6, Dec. 2018, pp. 212-223; Kauffman, J. Boone, *et al.* "Bison Influences on Composition and Diversity of Riparian Plant Communities in Yellowstone National Park." *Ecosphere*, vol. 14, no. 2, Feb. 2023; Beschta, Robert L., *et al.* "Bison limit ecosystem recovery in northern Yellowstone." *Food Webs*, vol. 23, June 2020.

Congressman Tom McClintock
Congressman Paul Gosar
Congressman Garret Graves
Congresswoman Amata Coleman Radewagen
Congressman Doug LaMalfa
Congressman Daniel Webster
Congresswoman Jennifer Gonzalez-Colon
Congressman Russ Fulcher
Congressman Pete Stauber
Congressman John Curtis
Congressman Tom Tiffany
Congressman Jerry Carl
Congressman Matt Rosendale
Congresswoman Lauren Boebert
Congressman Cliff Bentz
Congresswoman Jen Kiggans
Congressman Jim Moylan
Congressman Wesley Hunt
Congressman Mike Collins
Congresswoman Anna Paulina Luna
Congressman John Duarte
Congresswoman Harriet Hageman
Congressman Raul Grijalva
Congresswoman Grace Napolitano
Congressman Jim Costa
Congressman Gregorio Sablan
Congressman Jared Huffman
Congressman Ruben Gallego
Congressman Joe Neguse
Congressman Mike Levin
Congresswoman Katie Porter
Congresswoman Teresa Leger Fernandez
Congresswoman Melanie Stansbury
Congresswoman Mary Peltola
Congresswoman Alexandria Ocasio-Cortez
Congresswoman Sydney Kamlager-Dove
Congressman Seth Magaziner
Congressman Kevin Mullin
Congresswoman Val Hoyle
Congressman Ed Case
Congresswoman Debbie Dingell
Congresswoman Nydia Velazquez
Congressman Ryan Zinke
Senator Steve Daines
Senator Jon Tester