



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Malta Field Office  
501 South 2<sup>nd</sup> Street East  
Malta, Montana 59538  
<http://www.blm.gov/montana-dakotas>

March 29, 2022

Dear Permittee or Interested Public:

## NOTICE OF PROPOSED DECISION

This letter is notification of the Bureau of Land Management's (BLM) Finding of No Significant Impact (FONSI) and includes BLM's Proposed Decision affecting seven BLM grazing allotments administered by the Malta Field Office in Phillips County, Montana. The seven allotments are Telegraph Creek (allotment #05654), Box Elder (allotment #15634), Flat Creek (allotment #15439), Whiterock Coulee (allotment #15417), East Dry Fork (allotment #05617), French Coulee (allotment #05616), and Garey Coulee (allotment #05447)—all of which are located within the Malta Field Office in Phillips County, Montana. This letter serves as notice of a proposed grazing decision. A full range of alternatives were analyzed in the American Prairie Reserve Bison Change of Use Environmental Assessment (EA) (DOI-BLM-MT-L010-2018-0007-EA). Maps of the allotments affected by this proposed decision are included in the EA. The EA, FONSI and supporting information can be viewed at the following web location: <https://eplanning.blm.gov/eplanning-ui/project/103543/510>.

## INTRODUCTION

American Prairie Reserve (APR) has acquired grazing preference on the associated BLM allotments through the purchase or acquisition of private land serving as base property for these specific BLM grazing allotments.<sup>1</sup> On September 24, 2019, the APR<sup>2</sup> submitted a proposal to manage their base properties and associated grazing allotments to allow for a change in class of livestock from cattle to domestic indigenous livestock (bison). The proposal also requested a change to the current authorized seasons-of-use, modifications of some exterior fences, and building or removal of some interior fences. The proposal included a request to modify many fence structures with an electrified wire.

This proposed decision comprises approximately 63,065 acres of BLM-administered lands and currently provides 7,969 animal unit months (AUMs) of permitted use. Within the project area boundaries, in addition to the 63,065 acres of BLM-administered lands, there are 32,710 acres of private land deeded to the APR and 5,830 acres of state lands administered by the Montana Department of Natural Resources and Conservation. This proposed decision only applies to those lands administered by BLM.

---

<sup>1</sup> "Grazing preference" or "preference" means a superior or priority position against others for the purpose of receiving a grazing permit or lease. This priority is attached to base property owned or controlled by a permittee or lessee. 43 Code of Federal Regulations (CFR) 4100.0-5.

<sup>2</sup> American Prairie Reserve (APR), American Prairie Foundation (APF) and American Prairie (AP) are all the same entity, which is listed as the base property owner and is the permittee of record. The term American Prairie Reserve (APR) is used as a common reference to the applicant.

Prior to preparation of the EA, the public was notified of APR's proposed action on ePlanning and through a news release on March 21st, 2018, announcing a public scoping period from April 9th to May 9th, 2018. The news release also provided notice of a series of four BLM-hosted in-person open house-style public meetings, which were held on April 9th and 12th, 2018, in four communities in north-central Montana: Winnett, Winifred, Malta and Glasgow. Following publication of the preliminary EA on July 1st, 2021, BLM received requests for a comment period extension; therefore, the comment period was extended from 60-days to 90-days and closed September 28, 2021. One virtual public meeting was held on July 21st, during which BLM staff described the proposed action, provided instruction on submitting comments on the EA, and accepted verbal public comments. Throughout the duration of the public comment period, BLM received comments primarily through the comment mechanism that was provided on the project website. Comments were also received by mail. Several revisions to the EA were made based on public comments received, and an additional report detailing these changes, as well as BLM's response to public comments received during this period, is provided on the project website.

## **ALTERNATIVES CONSIDERED**

Four alternatives were presented in the EA: Alternative A, (No Action Alternative) which represents the continuation of current management and conditions that would persist if the proposal were not approved; Alternative B (Applicant Proposed Alternative); Alternative C, an alternative combining the applicant's proposal (bison grazing) with the current management practices (grazing management and season of use); and Alternative D (No Grazing), which identifies land acreages within the allotments be devoted to a public purpose, precluding any sort of livestock grazing. A complete rationale for alternative selection is described below.

## **PROPOSED DECISION**

The Selected Alternative is a combination of Alternative B and Alternative C as described in the American Prairie Reserve Bison Change of Use Environmental Assessment (EA) (DOI-BLM-MT-L010-2018-0007-EA).

It is my proposed decision to implement Alternative B for Telegraph Creek (05654), Box Elder (15634), Flat Creek (15439), and Whiterock Coulee (15417) Allotments. Alternative C is selected for French Coulee (05616), East Dry Fork (05617) and Garey Coulee (05447) Allotments.

Alternative B for the Telegraph Creek (05654), Box Elder (15634), Flat Creek (15439), and Whiterock Coulee (15417) Allotments will be implemented as described in Section 2.3 in the American Prairie Reserve Bison Change of Use Environmental Assessment (EA) (DOI-BLM-MT-L010-2018-0007-EA). Also, pursuant to Alternative B, renewed, 10-year term grazing authorizations will be offered to the APR with modified terms and conditions as described below, for a term of 10-years

## **Telegraph Creek and Box Elder**

*Telegraph Creek Allotment 05654 (Authorization # 2501506; Current Authorization; No Change)*

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current/New	2	I <sup>3</sup>	3/1	2/28	100	17
	112	I	3/1	2/28	100	1,344

Implementing Alternative B will result in offering a renewed grazing authorization. The Telegraph Creek Allotment will remain fenced, and fences will be maintained in accordance with established Cooperative Range Improvement Agreements. One internal pasture fence will be removed so there would be three pastures, instead of four, on BLM-administered land. Please refer to Appendix A of the EA for details regarding locations of proposed fence removal. Season-of-use will remain as currently permitted, 3/1 – 2/28.

*Box Elder Allotment 15634 (Authorization # 2500017; Current Authorization; No Change)*

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current/New	235	I	3/1	2/28	41	1,158

Implementing Alternative B will result in offering a renewed grazing authorization for the Box Elder Allotment. The construction of two fences will be authorized. One fence is between BLM and Charles M. Russell National Wildlife Refuge (CMR), and another fence between BLM and deeded lands. Please refer to Appendix A of the EA for details regarding locations of proposed construction. Season-of-use will remain as currently permitted, 3/1 – 2/28.

## **Flat Creek**

*Flat Creek Allotment 15439 (Authorization # 2504616)*

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	2	C <sup>4</sup>	3/1	2/28	100	21
	187	C	5/1	11/15	100	1,222
New	2	C/I <sup>5</sup>	3/1	2/28	100	21
	203	C/I	4/1	9/30	100	1,222

Implementing Alternative B will authorize a change in season-of-use and kind of livestock use from cattle to cattle and/or bison. The grazing season will be authorized from 4/1 to 9/30, and from 3/1 to 2/28 on small custodial parcels. On the Flat Creek Allotment, one interior fence will be removed so there will be four pastures, instead of five, on BLM-administered land. Another small fence segment in proximity to deeded lands will be removed. Other interior and exterior fences may be modified by adding one electric wire. Please refer to Appendix A of the EA for details regarding locations of proposed fence removal and modifications. Changes in fencing will allow Flat Creek to be grazed as a four-pasture rest-rotation system where one pasture is rested each year and one pasture is deferred during the growing season each year. The rest and deferred pastures will be different each year of the 4-year cycle.

<sup>3</sup> I denotes species of authorized domestic livestock as indigenous (bison).

<sup>4</sup> C denotes the species of authorized domestic livestock as cattle.

<sup>5</sup> C/I denote species of authorized domestic livestock as cattle and/or indigenous (bison).

**Whiterock Coulee***Whiterock Coulee Allotment 15417 (Authorization # 2500511)*

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	16	C	3/1	2/28	100	193
	416	C	5/1	10/31	74	1,862
New	16	C/I	3/1	2/28	100	193
	418	C/I	4/1	9/30	74	1,862

Implementing Alternative B will authorize a change in season-of-use and kind of livestock use from cattle to cattle and/or bison. The grazing season will be authorized from 4/1 to 9/30, and from 3/1 to 2/28 on small custodial parcels. Several interior fences will be removed creating three pastures, instead of four. Modification and reconstructions will occur to select interior and exterior fences by adding one electric wire. In addition, one fence will be constructed. Please refer to Appendix A of the EA for details regarding locations of proposed fence removal, modifications, construction, and reconstruction. Changes in fencing will allow the allotment to be grazed in a three-pasture deferred rotation system where one pasture is deferred during the growing season each year.

It is my proposed decision to implement Alternative C for French Coulee (05616), East Dry Fork (05617) and Garey Coulee (05447) Allotments as described in Section 2.4 in the American Prairie Reserve Bison Change of Use Environmental Assessment (EA) (DOI-BLM-MT-L010-2018-0007-EA). Also, pursuant to Alternative C, renewed, 10-year term grazing authorizations will be offered to the APR with modified terms and conditions as described below, for a term of 10-years.

**East Dry Fork, French Coulee, and Garey Coulee Allotments***French Coulee Allotment 05616 (Authorization # 2500276)*

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	1	C	3/1	2/28	100	7
New	1	C/I	3/1	2/28	100	7

*East Dry Fork Allotment 05617 (Authorization # 2500276)*

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	225	C	5/1	11/30	100	1,584
New	225	C	5/1	11/30	100	1,584

*Garey Coulee Allotment 05447 (Authorization # 2500611)*

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	3	C	3/1	2/28	100	40
	74	C	5/1	11/30	100	521
New	3	C/I	3/1	2/28	100	40
	74	C/I	5/1	11/30	100	521

Reconstruction/electrification of the existing allotment boundary fence will be authorized in the Garey Coulee and French Coulee Allotments.

## TERMS AND CONDITIONS/STIPULATIONS

In addition to the Standard Terms and Conditions found on all grazing permits, the following Terms and Conditions would apply to all allotments and Cooperative Range Improvement Agreements, as appropriate:

1. A *Livestock Control Agreement* or *Pasturing Agreement* must be filed with the authorized officer and approval received prior to any grazing use for livestock which graze the public lands that are being leased or are not owned by the permittee or lessee (43 CFR 4130.7(d)).
2. In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements must be located at least 0.25 mile from water located on public land (any riparian area, wet meadow, or watering facility) (43 CFR 4130.3-2(c)).
3. Numbers of livestock may vary within the permitted season of use as long as the total permitted AUMs are not exceeded (HiLine RMP; BLM 2015a).
4. An Actual Livestock Grazing Use Report **must** be submitted to the Malta BLM Office within 15 days after livestock are removed from the Allotment(s).
5. All range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple use management, and as agreed to in a Cooperative Range Improvement Agreement (43CFR 4120.3-1(a)) and contingent upon site-specific cultural resource inventory results.
6. All water developments and tanks will include functional wildlife escape ramps.
7. Per Appendix B of the HiLine RMP (BLM 2015a), all fences within 1.2 miles of Greater Sage-Grouse leks should be marked to decrease the chance of Greater Sage-Grouse collisions.
8. The authorized officer may modify terms and conditions of the permit or lease when the grazing use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 43 CFR 4180 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.
9. Failure to pay grazing bills within 15 days of the due date specified in the bill shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, but not to exceed \$250.00. Payment made later than 15 days after the due date shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR 4140.1(b)(1) and shall result in action by the authorized officer under 43 CFR 4150.1 and 4160.1-2 (43 CFR 4130.8-1(t)).
10. All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease (43 CFR 4130.3-1(b)).
11. If on-the-ground monitoring determines that livestock grazing has prevented suitable habitat conditions for Greater Sage-Grouse on more than half of three or more than three key monitoring sites within an allotment, livestock numbers will be reduced by 10 percent. They may be reduced another 10 percent the following year if habitat conditions remain unimproved. Livestock numbers would only be restored to full numbers when a management action plan is in place to correct the reason(s) for the failure. Desired Conditions for Greater Sage-Grouse Habitat are found in Table 2.3-2 of the HiLine RMP.
12. On permits containing both cattle and/or domestic indigenous livestock listed for Kind of Livestock, those permits will allow for any combination of cattle or domestic indigenous livestock during the listed season of use.

13. Tagging or identification of individual bison would meet the requirements of Montana Department of Livestock.
14. Disease testing would meet Montana Department of Livestock requirements.
15. Except where otherwise indicated, allotments would be fenced as shown on fence maps (see **Appendix A of EA**, Maps), and fences would be maintained per specific standards (see **Appendix B of EA**, Fence Design and Maintenance). Range improvement projects will be constructed, maintained, modified, reconstructed in accordance with approved Cooperative Range Improvement Agreements established prior to implementation, Electric fence notification signs will be required at gates and cattle guards. Single cattleguards will be replaced with double cattleguards. Proper signage indicating electrified wire will also be installed. Gates would be non-electrified. Additional features to further ensure public safety will also be incorporated into project design, as needed.
16. To ensure adequate public vehicular access, gates and/or cattleguards will be installed in fences on every publicly accessible road or trail. Additional gates will be installed along fences where access is recommended by BLM. As a general rule, at least one gate will be installed every 0.50 mile and in sharp angle corners. The Permittee will be required to install additional gates, stiles, or fence ladders where additional public access may be needed in order to ensure public safety.
17. For all Active Use allotments, The Permittee has the flexibility to apply to turn out earlier or stay later up to 14 days on the allotment provided AUMs allocated are not exceeded. The application must be submitted to the BLM before the grazing use occurs, reviewed by BLM specialists and approved by the authorized officer.
18. Grazing use will be in accordance with the Selected Alternative as specified in the Final Decision for all allotments.

## **RATIONALE**

The Selected Alternative best meets the purpose of and need for the Proposed Action because it responds to an external proposal and fully addresses BLM's need to consider changes in class of livestock, changes to seasons of use, construction, reconstruction, and/or removal of range improvement projects, allotment adjustments and administrative actions. The Selected Alternative provides for ten year permits that include terms and conditions that will either maintain and/or improve, or have no adverse effects on resource conditions and issues identified in Section 1.5 of the EA. The effects analysis in Chapter 3 indicates that the Selected Alternative, to a greater degree than other alternatives, meets BLM's need to respond to the proposal while incorporating terms and conditions that best facilitate management that will meet Standards of Rangeland Health (Standards) and conform to the Guidelines for Livestock Grazing Management (Guidelines). Because the effects analysis and Finding of No Significant Impact (FONSI) did not identify adverse effects and noted several instances where beneficial effects are expected to occur, the Selected Alternative was determined to be more responsive to the Purpose and Need than Alternative A or Alternative D.

Grazing permits contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource condition objectives for the public lands and ensures conformance with Fundamentals of Rangeland Health (43 CFR §4130.3). Existing conditions for all seven of the allotments are described in land health assessments conducted by the Malta Field Office in 2016 and 2019. Additionally, Chapter 3 of the EA found that the allotments will continue to meet or make progress towards meeting Standards and Guidelines (August 1997) under all Alternatives, but to a greater degree for the Selected Alternative. Moreover, those areas being grazed by bison will

experience improvements to vegetative communities including variation in vegetative communities, diversified vegetation and an increase in native plant species. Because bison tend to graze in patches, the result is a patchy distribution of vegetation that encourages plant species diversity by allowing forbs to flourish. Species such as Greater-Sage Grouse will benefit from an increase in native forbs. Because bison tend to spend less time and forage greater distances from water, improvements to riparian vegetation and riparian function will also be seen. This will improve habitat conditions for aquatic and riparian wildlife species, such as amphibians and riparian birds, by increasing the availability of habitat features, such as canopy cover and nesting sites, due to increased riparian vegetation diversity and abundance. Reduced erosion and sedimentation will improve in-stream habitat by improving water quality and hydrological function, which are important habitat characteristics for some special status fish species.

The Proposed Decision to implement the Selected Alternatives is in conformance with 43 CFR §4130.2 and 43 CFR §4130.3-2 because the grazing authorizations are being issued to a qualified applicant, include types of use, levels of use authorized, and specifies appropriate terms and conditions. The permittee is in substantial compliance with the rules and regulations and the terms and conditions in the existing permits; has demonstrated conformance with Standards of Rangeland Health (Standards) and Guidelines for Livestock Grazing Management (Guidelines) on all allotments, including where bison grazing is already authorized; and has a satisfactory record of performance. Domestic bison grazing is an authorized, managed and permitted use on BLM. Other similar BLM authorizations for privately controlled bison currently exist in the North Central Montana District, Montana/Dakotas and nationally. Kind of livestock, number of livestock, the period of use, the allotments to be used, and the amount of use are specified in the tables shown above for the Selected Alternative. Specific terms and conditions are being added to the permits to ensure conformance with Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration (43 CFR §4130.3-1(c)). The associated permitted use specified is appropriately attached to the base property supporting the grazing permits. (43 CFR §4110.2-2). A proposal that contained a complete description of mandatory and other terms and conditions, range improvement projects and a description of associated grazing system that adequately serve as functional allotment management plans (43 CFR §4120.2) was appropriately filed with the authorized officer at the local Bureau of Land Management Office having jurisdiction over the public lands involved (§4130.1-1).

The proposed permits include other terms and conditions that specify the kind of livestock that will graze, including the type of domestic indigenous livestock authorized to graze, actual use reporting, and the percentage of public land use determined by the proportion of livestock forage available on public lands within the allotments. Other terms and conditions are specified in the grazing permits that assist in achieving management objectives and proper range management by identifying the kinds of livestock authorized to graze under specific terms and conditions (43 CFR §4130.3-2(e)). Preferable to Alternatives A and D, the Selected Alternatives best facilitates coordination of public land grazing management with intermingled and adjacent deeded base property (43 CFR §4100.0-2) because it reduces potential indirect effects to wildlife and special status species on adjacent and intermingled lands that may occur due to increases in the density of range improvements, such as fences and water features, which would likely increase on the adjacent private lands. These range improvements may not be constructed to wildlife-friendly standards, so the overall impact on some wildlife species could be detrimental. For example, while the amount of fencing that would be added to adjacent private lands is unknown, the need for additional fencing to be constructed by landowners to prevent livestock trespass from bison or under a No-Grazing scenario on BLM-administered lands could result in indirect impacts on Greater-Sage Grouse, including increased fragmentation, increased collisions with fences, and increased raptor predation from inappropriate fence location and design that provides for raptor perches (BLM 2013).

Bison will not be authorized in the East Dry Fork (05617) Allotment to allow for continued common cattle grazing which will best assist in the orderly administration of the public rangelands (43 CFR 4130.3-2). Selecting Alternative

C for East Dry Fork, Garey Coulee, and French Coulee Allotments responds to the proposal while continuing cattle grazing in the East Dry Fork Allotment while authorizing bison grazing in Garey Coulee and French Coulee Allotments.

Initially, APR proposed to fence a portion of the East Dry Fork Allotment (allowing for private use) and use that portion of the East Dry Fork Allotment in conjunction with the French Coulee and Garey Coulee Allotments in a grazing rotation (see Appendix A for map). After consulting with APR and the other operator in the East Dry Fork Allotment, no agreement could be reached on how to equitably divide up the East Dry Fork Allotment, therefore, Alternative C was selected for the East Dry Fork, French Coulee and Garey Coulee Allotments. APR will be required to run cattle in the East Dry Fork Allotment but will be allowed to run either cattle or bison in the French Coulee and Garey Coulee Allotments. French Coulee has only 80-acres of BLM administered lands and is already authorized as a custodial allotment. Garey Coulee will maintain its current season of use and the pasture fence will remain in place to maintain current grazing management practices.

Implementing the Selected Alternatives is in conformance with the Hi-Line District Resource Management Plan (RMP), approved in September 2015, The RMP considered a No-Bison Grazing Alternative but eliminated the alternative from detailed study because domestic bison grazing was determined to be consistent with federal regulations. Page 13 of the Hi-Line Proposed RMP/Final EIS states, “*Any future proposals to change the class of livestock from cattle to bison would be considered as provided by the grazing regulation*”. The grazing regulations provide for authorizing grazing permits for privately owned indigenous animals. BLM has also permitted bison on allotments in other areas of Montana, Colorado, New Mexico, North Dakota, South Dakota, and Wyoming. Any future proposals to change the kind of livestock from cattle to bison would be considered as provided by the grazing regulations. A distinction is made between bison that are privately owned and considered livestock and those that are considered wildlife (publicly owned) that fall under the jurisdiction of the State of Montana. The Department of the Interior Bison Conservation Initiative (DOI 2008) provides guidance to address the health and genetic composition of the Department’s bison herds in seven national wildlife refuges and five national parks, which are all outside of the planning area. Authorization of bison grazing through a grazing permit identifies bison as domestic and provides for management and control of these livestock.

The goal of livestock grazing in the RMP is to provide opportunities on the public rangelands for a maintainable level of livestock grazing consistent with multiple use and sustained yields. BLM prioritizes renewal of grazing permits in Priority Habitat Management Areas (PHMA) and includes assurances that if livestock use is adversely affecting Greater Sage-Grouse or their habitat, terms and conditions may be modified or changes in active use can be considered. Distribution of livestock, season, intensity, distribution and kind of livestock (including domestic bison) can be considered to meet seasonal Sage-Grouse habitat requirements. The Selected Alternatives include an additional term and condition to prevent deterioration of suitable habitat conditions for Greater sage-grouse habitat and identifies the desired conditions for Greater Sage-Grouse Habitat as identified in the RMP: *If on-the-ground monitoring determines that livestock grazing has prevented suitable habitat conditions for Greater Sage-Grouse on more than half of three or more than three key monitoring sites within an allotment, livestock numbers will be reduced by 10 percent. They may be reduced another 10 percent the following year if habitat conditions remain unimproved. Livestock numbers would only be restored to full numbers when a management action plan is in place to correct the reason(s) for the failure. Desired Conditions for Greater Sage-Grouse Habitat are found in Table 2.3-2 of the HiLine RMP.* In addition, Grazing management will include a more standard season-of-use which includes both rest and deferred rotation grazing systems. Alternative B of the EA will allow bison to graze in early spring (April 1<sup>st</sup>) which will increase grazing intensity on some allotments, but the deferred grazing and rest-rotation grazing regimes will ensure that no two pastures



will be used in consecutive years during the growing season. Grazing under Alternative C will continue in accordance with listed seasons on the permits which will result in conformance with Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.

Because bison move much greater distances each day (especially from water sources), and forage over much larger areas, the impacts from grazing during the growing season will be minimal. If grazing results in negative impact to rangeland health, a reduction of livestock numbers will occur in accordance with the terms and conditions of the permit. Smaller allotments or custodial pastures with small portions of BLM administer lands will be allowed to be used in conjunction with the operators grazing program as long as Standards and Guidelines continue to be met. Both Telegraph Creek and Box Elder Allotments will continue to be authorized for year-round grazing and monitored in order to study the effects of year-round bison grazing.

The objective of the RMP for livestock grazing is to manage livestock grazing to provide a sustained flow of local economic benefits and protect resource values. Change in use from cattle to domestic indigenous livestock under Alternative B and Alternative C of the EA showed relatively limited economic changes compared with the existing baseline economic conditions, and continuation of current management will not result in any adverse effects on disadvantaged communities that meet the criteria for consideration under environmental justice, including tribal entities. In addition, no scientifically and/or resource management-based reason was identified for why bison should not be permitted to graze BLM land as long as the owner of the animals qualifies as an applicant under the requirements of the grazing regulations. The EA further concluded that changes will not measurably contribute to public health and safety due to the limited potential for close, direct bison encounters with people. Appropriate levels and types of fencing are proposed to ensure safe containment. Montana Department of Livestock procedures for detecting and eradicating disease will be followed as required by law. Permittees will be required to install additional gates, stiles, or fence ladders where additional public access may be needed to ensure public safety.

The retention, modification (electrification), construction, removal of specific range improvement projects, as found in Appendix A of the EA, are consistent with 43 CFR §4120.3-1, 43 CFR §4120.3-2 and 43 CFR §4120.3-4 because installation, maintenance, removal and modifications are done in a manner to promote resource objectives consistent with multiple-use management. Any fence that is modified built and maintained will meet special conditions stipulated in the Cooperative Range Improvement Agreement (Form 4120-6), established prior to construction. Special conditions stipulated from design features identified in Appendix B of the EA. Under alternative B, fencing changes will result in 87.4 miles of fence to be retained, 43.9 miles of fence to be reconstructed, 35.7 miles to be reconstructed as electric, 5.2 miles of new fence to be built and, and 30.4 miles to be removed (see Appendix A). Under Alternative C, the reconstruction/electrification of boundary fences in Garey Coulee will modify fences to wildlife-friendly specifications. Overall, both Alternatives B and C incorporate wildlife friendly fence standards and modifications which will improve big game habitat by eliminating or reducing barriers to movement and improve big game migration by allowing wildlife to go over or under fences more easily. Modifying or reconstructing fences will improve habitat for special status species, such as Greater Sage-Grouse, that rely on large and contiguous areas of habitat to support home ranges and/or migration routes (Connelly et al. 2011). Fence removal will also decrease the availability of perches for avian predators in the area, which will potentially decrease mortality of Greater Sage-Grouse and other special status wildlife species that are vulnerable to avian predation. Private landowners in the analysis area continually construct, remove, and modify fences to meet their livestock operational needs.

The Proposed Decision to implement the Selected Alternative is in conformance with the Taylor Grazing Act of June 30, 1934, as amended because it provides for the continued administration, regulation and improvement of public

rangelands and fulfills the federal government's involvement in rangeland management to address uncontrolled grazing and rangeland depletion and deterioration. This Proposed Decision is in conformance with the Federal Land Policy and Management Act (FLPMA, 1976) as amended because it incorporates terms and conditions appropriate for management of permitted lands.

Additionally, the Proposed Decision to implement the Selected Alternative is in conformance with the Federal Grazing Regulations because it will promote healthy sustainable rangeland ecosystems; promote the orderly use, improvement and development of the public lands; and continue efficient and effective administration of grazing of public rangelands by best facilitating coordination of public land grazing management with intermingled and adjacent deeded base property (43 CFR §4100.0-2).

Finally, given the level of public interest in the proposal, BLM initiated an increased effort to engage local and state cooperators and the interested public to the greatest extent possible. Consultation, cooperation and coordination requirements were met, or exceeded prior to issuance of the Proposed Decision in accordance with 43 CFR §4120.3, 40 CFR §1500.2(d) and 40 CFR §1406.6. The BLM provided a public scoping period, four public scoping meetings and an extended public comment period on the preliminary EA with an associated public meeting where further public comment was accepted. Supporting documents, project updates, contact information and opportunities to participate were available on BLM's ePlanning website. Though the proposal to allow domestic indigenous livestock grazing conflicts with views and opinions expressed among some users of public lands, such unfavorable views of the proposal itself do not constitute scientific controversy, disagreement about the nature of effects, or provide evidence that the project is not in conformance to BLM's statutory and regulatory requirements. Substantive comments that questioned a point of fact or policy, the accuracy of information, or the methodology or assumptions were fully considered as to whether potential changes for project and associated analysis were necessary. A summary of substantive concerns and BLM responses are available at the following web location: <https://eplanning.blm.gov/eplanning-ui/project/103543/510>.

## **AUTHORITY**

The following sections of the Code of Federal Regulations, Chapter 43, provide authority for the actions proposed in this grazing decision. The language of the cited sections can be found at a library designated as a federal depository or at the following web address:

<https://www.blm.gov/policy/im-2009-109>

§4100 Grazing Administration – Exclusive of Alaska; General

§4100.0-2 Objectives

§4100.0-3 Authority

§4100.0-8 Land use plans

§4110.1 Mandatory Qualifications

§4110.2 Grazing preference

§4110.2-2 Specifying grazing preference

§4120.2 Allotment Management Plans

§4120.3-1 Conditions for Range Improvements

§4120.3-2 Cooperative Range Improvement Agreements

§4120.3-4 Standards, Design, and Stipulations

§4130.1-1 Filing Applications

§4130.2 Grazing Permits or Leases

§4130.3 Terms and Conditions  
§4130.3-1 Mandatory Terms and Conditions  
§4130.3-2 Other Terms and Conditions  
§4160.1 Proposed decisions  
§4160.2 Protests  
§4160.3 Final decisions  
§4160.4 Appeals  
§4180.1 Fundamentals of rangeland health  
§4180.2 Standards and guidelines for grazing administration

### **RIGHT OF PROTEST AND/OR APPEAL**

Any applicant, permittee, lessee or other interested public may protest the proposed decision under 43 CFR 4160.1 and 4160.2, within 15 days after receipt of such decision should be in writing and delivered to:

Tom Darrington, Field Manager  
Bureau of Land Management  
Malta Field Office  
501 South Second Street East  
Malta, MT 59538

Any protest filed should document the reason(s) why the proposed decision is in error. The BLM can accept protest documents for consideration as specified in 43 CFR 4.22(a) and 4160.2

In accordance with 43 CFR 4160.3(a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

In accordance with 43 CFR 4160.3(b), upon a timely filing of a protest, after a review of protest received and other information pertinent to the case, the authorized officer shall issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file a notice of appeal in writing for the purpose of a hearing before an administrative law judge in accordance with 43 CFR 4160.3(c), 4160.4, and 4.470. The notice of appeal must be filed within 30 days following receipt of the final decision or within 30 days after the date the proposed decision becomes final. The notice of appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 pending final determination on appeal. The notice of appeal and petition for a stay must be filed in the office of the authorized officer, as noted above. As defined in 43 CFR 4.22(a), "A document is filed in the office where the filing is required only when the document is received in that office during its regular business hours and by a person authorized to receive it. A document received after the office's regular business hours is considered filed on the next business day."

Within 15 days of filing the appeal, the appellant must provide the BLM with proof of service to the other persons named in the Copies Sent To section of this decision in accordance with 43 CFR 4.470(a). A copy of the appeal must also be served on the Office of the Solicitor located at the address below in accordance with 43 CFR 4.413(a).

Office of the Solicitor, Billings Field Office,  
Rocky Mountain Region, Department of the Interior  
2021 4th Avenue North, Suite 112  
Billings, MT 59101

In accordance with 43 CFR 4.413(b), failure to serve a notice of appeal will subject the appeal to summary dismissal as provided in 43 CFR 4.402. Appellants are responsible for determining whether the Office of the Solicitor or other persons named in the decision will accept service of a notice of appeal and/or petition for stay electronically via email.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR 4.471.

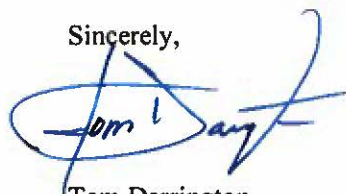
Any person named in the decision from which an appeal is taken (other than the appellant), who wishes to file a response to the petition for a stay, may file with the Departmental Cases Hearings Division, Office of Hearings and Appeals a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. The address for the Departmental Cases Hearing Division is:

Office of Hearings and Appeals  
U.S. Department of the Interior  
351 South West Temple, Suite 6.300  
Salt Lake City, Utah 84101

Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, appropriate office of the Office of the Solicitor, in accordance with 43 CFR 4.413(a), and any other person named in the decision (43 CFR 4.472(b)).

If you have any questions or need additional information, please contact Regina Baltrusch, Public Affairs Specialist, at (406) 791-7778.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Darrington". The signature is stylized with a large loop at the beginning and a long horizontal stroke at the end.

Tom Darrington  
Field Manager Malta Field Office