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Attorneys for Plaintiffs

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

<p>WESTERN WATERSHEDS PROJECT, et al.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>SALAZAR, et al.,</p> <p>Defendants.</p>	<p>CV-09-159-M-CCL</p> <p>SECOND DECLARATION OF DARRELL GEIST</p>
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Pursuant to 28 U.S.C. Sec. 1746, I, Darrell Geist, hereby declare under penalty of perjury that the following is true and correct:

QUALIFICATIONS & EXPERTISE

1. I am a Montana resident who lives near Hebgen Lake, West Yellowstone, Montana. My Montana residence is bordered by the Gallatin National Forest in the vicinity of Yellowstone National Park and overlooks the Hebgen basin along the Continental Divide.
2. I have worked and volunteered with the Buffalo Field Campaign since our founding in 1997. For over a decade starting in the 1990s, as part of my work with the nonprofit organization Cold Mountain, Cold Rivers, I was involved in advocating for the conservation, preservation and restoration of wild bison, and in numerous instances directly experienced the on-going government actions targeting wild buffalo for brucellosis, an exotic disease introduced by cattle into Yellowstone's ecosystem a century ago.
3. I am currently the Habitat Coordinator for Buffalo Field Campaign. In this position, I work to protect wild bison as a native wildlife species and to conserve habitat for migratory populations of wild bison in their native range.
4. Buffalo Field Campaign is a federally recognized non-profit

organization based in West Yellowstone, Montana, and was founded in 1997 to stop the slaughter of Yellowstone's wild buffalo, protect the natural habitat of wild free-roaming buffalo and other native wildlife, and to work with people of all Nations to honor the sacredness of the wild buffalo. Members and supporters of Buffalo Field Campaign reside in all 50 states, enjoy and experience wild bison in their native habitat, and value native species diversity and abundance that wild bison provide for on our National Parks and Forests. Buffalo Field Campaign, our members and supporters, have a special reverence for wild bison, a valued indigenous species that is part of our natural heritage and wildlife trust for future generations to enjoy and experience.

5. I have a Bachelor of Arts in Political Science (1988). For nearly all of my adult life I have worked with several non-profit and public interest organizations to conserve our natural heritage and protect our environment. In my work with Buffalo Field Campaign I advocate for wild bison to freely roam in their native habitat, to thrive as a unique and irreplaceable part of the land and ecology, and to persist as a living cultural link for many peoples who love and cherish wild buffalo as I do.

6. I have long valued wild bison and native wildlife and the ecosystems upon which they depend, and have visited the Yellowstone ecosystem since the early 1990s to enjoy the experience of seeing wild bison and other native wildlife in the Gallatin National Forest, Yellowstone National Park, Targhee National Forest, Grand Teton National Park, National Elk Refuge, Bridger-Teton National Forest, and on private lands where wild bison are welcome like the Yellowstone Ranch Preserve and Yellowstone village on Horse Butte. I also know many local residents living in Gardiner Basin who welcome the migration of wild bison onto their property, including Gardiner area rancher Hank Rate, and seek to preserve the unique experience of migrating populations on our National Forests and National Parks.
7. Few opportunities exist to enjoy seeing American bison that retain their identity as a native wildlife species in the United States, Montana, and the Yellowstone ecosystem. Seeing indigenous American bison in their native habitat in the greater Yellowstone ecosystem is a unique and irreplaceable experience for me.
8. The wild American bison is part of my natural heritage. I particularly value the ecological roles wild nomadic bison have in providing for native plant, fish, bird, and wildlife diversity, healthy grasslands, and

- clean watersheds on our public lands. Viewing the last wild population of American bison in their original range is of aesthetic, spiritual, cultural, and national significance to me. I particularly value observing and learning from wild bison and the lessons our culture can learn from their behavior: nurture strong family bonds, show a willingness to look after one another in a population, share the hardships in breaking trail to find new food sources, fend for the lesser among your group, traits that have served the wild species well.
9. In my time in Yellowstone, I have experienced repeated psychological stress and distress witnessing bison being shot by National Park Service, Montana Dept. of Livestock, and U.S. Dept. of Agriculture APHIS agents, bison being forced to flee National Forest lands upon harassment by government helicopters, ATVs, horses, and agents, and being forced from habitat necessary for their survival into capture pens on National Forest and Yellowstone National Park lands.
10. The continuing harm to American bison by Interagency Bison Management Plan (IBMP) agencies on public lands over several decades without remediation or relief to restore and conserve populations of the wild species in their native range in perpetuity is an ongoing harm to me, Buffalo Field Campaign and our members, and

to future generations who are the beneficiaries of our wildlife heritage trust.

11. Over a period of many years I have participated in numerous agency management decision meetings and I concur with the U.S. GAO's report on Yellowstone bison that the IBMP "does not have clearly defined, measurable objectives, and the partner agencies share no common view of the objectives. Consequently, the agencies have no sound basis for making decisions or measuring the success of their efforts." I also concur with the GAO's finding that "the agencies lack accountability among themselves and to the public, and it is difficult for the public to obtain information without attending the meetings or contacting each individual agency." (U.S. GAO, YELLOWSTONE BISON Interagency Plan and Agencies' Management Need Improvement to Better Address Bison-Cattle Brucellosis Controversy, March 2008).

12. The environmentally preferred alternative rejected by the IBMP agencies but overwhelmingly supported by the public called for managing bison as a wildlife species, conservation of historic nomadic migration to adjacent National Forests, additional habitat acquisitions, and where habitat conflicts exist, manage domestic cattle not native

wildlife. (The Council on Environmental Quality defines the environmentally preferred alternative as one that “. . .causes the least damage to the biological and physical environment and best protects, preserves and enhances historic, cultural and natural resources.”

(Record of Decision, Final EIS and Bison Management Plan for the State of Montana and Yellowstone National Park, December 20, 2000).

13. My extensive, on-going participation in advocating scientific, ecological and culturally respectful conservation, preservation and restoration of wild bison and their habitat includes offering testimony at public meetings and hearings of the Interagency Bison Management Plan and the Montana legislature, meeting with Gov. Brian Schweitzer, meeting with U.S. Congressional offices and preparing testimony for Congress, providing research to and being interviewed by U.S. Government Accountability Office investigators, development and maintenance of Buffalo Field Campaign’s wild bison habitat, and mapping bison habitat for conservation web sites (E.g., <http://www.buffalofieldcampaign.org/habitat.html>).

14. Based on all of the above and more, I am fully qualified to attest to the following matters.

YELLOWSTONE NATIONAL PARK CAPTURE AND
IMMINENT SLAUGHTER OF BISON AT STEPHENS CREEK
TRAP

15. In cooperation with the State of Montana Department of Livestock, Yellowstone National Park began systematically hazing, capturing, confining and testing wild bison in early January 2011, and announced its intention at the end of January 2011 to begin shipping wild bison to slaughter houses.
16. To the best of my knowledge, 340 buffalo have been captured inside Yellowstone National Park at Stephens Creek between January 31 and February 2, 2011 by the National Park Service and confined for sorting and testing.
17. Statements made in the press by Yellowstone spokesman Al Nash indicate that even bison that test negative for the disease brucellosis might be slaughtered.
18. The Park's August 2010 estimate of 3,900 bison with subpopulation distribution of fifty-six percent across the Northern Range and the remainder from the Central Interior herd *is below minimum population levels best available science finds necessary to achieve long-term evolutionary and demographic conservation goals* (Yellowstone National Park Yellowstone's Summer 2010 Bison

- Population Estimate Released, August 17, 2010; Traill *et al.*, 2010).
19. Traill synthesized 30 years of cross-species frequency distribution of minimum population levels to derive populations from 3577 to 5129 (95% C.I) individuals, with a median of 4169 and recommended a generalized minimum population level of *5000 mature individuals to prevent species extinction.*
 20. To date there has been no information released by the National Park Service on surveys for winter killed bison, and it is uncertain and unknown at this time how many bison were taken by grizzly bears and wolves.
 21. Snowpack levels along Yellowstone's northern range are about **30-percent above average** for this time of year. (Yellowstone National Park, Yellowstone Releases Bison from Stephens Creek, January 27, 2011, Al Nash).
 22. With deeper snow packs, bison are more vulnerable to predation and winterkill and more likely to migrate outside Yellowstone National Park where they face lethal management actions.
 23. As of February 2, 2011, approximately 290 bison were spotted by binoculars just inside Yellowstone's northern boundary by members of Buffalo Field Campaign in a partial roadside survey. This survey

- indicated that the bison were headed north, toward Montana.
24. According to the Park Service the Stephens Creek trap can only hold 400 bison. With more than 340 already being held in the trap and approximately 300 bison very close to the Park boundary and heading north, the trap could reach capacity very soon. According to Park spokesman Al Nash and based upon previous years' experience, when the trap reaches capacity all captured bison are sent to slaughter regardless of brucellosis test results.
25. As of February 2, 2011, the combined take of wild bison by state and Tribal treaty hunters totaled approximately 126 killed. The state hunt continues into mid-February and treaty hunts will continue to occur at times directed by each Tribe.
26. The long-term conservation of wild bison depends on at least 600-800 bison being allowed access to winter range outside Yellowstone National Park (ARY6589). The long-term conservation of wild bison is very important to me, and I believe to future generations as well.
27. Management of bison pursuant to the IBMP has already had the following documented adverse effects that are of particular concern to me, as these impacts negatively affect my ability to view and experience bison in a natural setting:

- a. Alteration of bison subpopulation migration and abundance;
- b. Disproportionately slaughtered subpopulations reduced by **over half** the Central Interior herd in 2008 and the Northern Range herd in 1996;
- c. Alteration in age structure (associated with removing older bison);
- d. Increased disease prevalence;
- e. Repeatedly disruptions of wild species migrations to essential habitats through a host of livestock management techniques.

(ARY6586, ARY7622, ARY7676-7701, ARY 7682-7683, ARY9218, ARY 9194-95) and ARY (8-31-08), ARY (4-30-08).

28. The long-term ecological and biological costs and impacts of the IBMP are largely unknown or poorly understood by the agencies implementing the IBMP. ARY6586, ARY7677, ARY7683. I am deeply concerned that the agencies are taking actions without knowing the costs, and that the costs could be high.

29. The record reveals that the Northern Range bison herd could be placed in jeopardy by repeated, substantial IBMP slaughters,

particularly in severe winters (ARY4012-4340, Gates et al., 2005) such as 2007-08 and the present winter season.

30. The on-going harassment, capture in pens, shooting and forced removal by Montana Dept. of Livestock agents and National Park Service rangers with assistance from U.S. Forest Service law enforcement officers, is causing injury to wild bison, disturbing and disrupting the ecosystem, and removing a food source for threatened grizzly bears, gray wolves, and for eagles, ravens, coyotes, and other native species that benefit from the presence of migratory bison.
31. Additionally, the failure of the IBMP agencies to deliver scientific data and results and adapt those findings into management actions on how the IBMP is impacting bison genetic health, diversity and well being, and ecology, is an on-going harm with potentially irreversible (genetic) impacts on the bison population. Continued use of the trap by Yellowstone National Park to remove and kill bison, and to force them to flee repeatedly from winter ranges necessary for their viability and persistence, is an on-going harm and irreparable impairment of the experience and enjoyment by myself, Buffalo Field Campaign and our members in conserving viable populations of wild bison and associated native species on our public lands.

YELLOWSTONE NATIONAL PARK CAPTURE, HAZING,
SHOOTING OF BISON RELEASED ONTO THE ROYAL TETON
RANCH LAND ON THE GALLATIN NATIONAL FOREST

32. In January 2011, 88 buffalo were captured inside Yellowstone National Park at Stephens Creek by the National Park Service, confined for testing with 25 bison subsequently released January 19 from the trap and then hazed several miles through an electrified fenced corridor on the Royal Teton Ranch to Cutler Meadows on the Gallatin National Forest.
33. Of the 88 bison captured to put the Royal Teton Ranch lease agreement into effect, one bison cow was injured in captivity and euthanized by the National Park Service. (Yellowstone National Park, Yellowstone Releases Bison from Stephens Creek, January 27, 2011).
34. Montana Department of Livestock inspectors and Yellowstone National Park rangers shot one bison released onto the Royal Teton Ranch that crossed east of the Yellowstone River.
35. Shortly after being hazed to Cutler Meadows, most of the 25 bison were repeatedly forced to flee their winter range for crossing east of the Yellowstone River. Eventually, 13 bison were captured by Department of Livestock inspectors and Yellowstone National Park rangers in corrals near bison quarantine pens and then released.

36. To the best of my knowledge, these bison joined the remainder of the 62 bison recently released by the Park Service from the Stephens Creek trap.

37. To the best of my knowledge, these bison were then captured again January 31, 2011, **inside** Yellowstone National Park at Stephens Creek, in the removal of approximately 300 bison from their natural winter range in the Gardiner basin.

38. To the best of our knowledge, an additional 21 bison were captured February 1, 2011, and an additional 20 bison were captured February 2, 2011 inside Yellowstone National Park at Stephens Creek.

2008 BISON SLAUGHTER

39. In 2008, government slaughter operations forever removed more than 1,500 of the species in one season: 1,434 bison captured and sent to slaughter, 99 bison removed for quarantine, and several bison that died or were euthanized in captivity. Over 109,000 people petitioned and/or contacted National Park Service Director Mary Bomar asking her to end the bison slaughter that season.

40. An emergency rule making petition filed in response to that slaughter presented evidence of loss of bison genetic diversity in the population as a whole and within distinct breeding groups, loss of whole familial

maternal groups and bachelor bull cohorts, and called upon the Park Service to conserve a minimum of 2,000 mature bison in each subpopulation not subject to non-random removal by the government to ensure that 95% of genetic diversity would be conserved.

41. None of the agency partners have adapted any additional safeguard measures to ensure bison genetic diversity and viability beyond the Interagency Bison Management Plan's 2,100 total bison population measure triggering increasing use of non-lethal activities. Nor have the agencies taken a hard look at the impacts of their management actions and the population management thresholds in the IBMP on bison genetic diversity, population viability, subpopulation impacts, and associated ecological impacts of disrupting bison and non-randomly killing substantial portions of the population continuously.

42. I am deeply troubled that the total, on-going government-led slaughter of over 5,000 bison since 1995 has led to the irreparable loss of bison genetic diversity, impaired the ability of indigenous bison to occupy habitat that sustains wild populations on our National Forests and Parks, and harmed the biological integrity and fitness of the distinct breeding groups or subpopulations that comprise the genetically isolated and unique Yellowstone population.

43. In May 2008 I witnessed several mixed groups of bison including newborn calves that were forced off habitat on the Gallatin National Forest into Yellowstone National Park where forage was inaccessible due to flooding conditions along the Madison River. Coming on the heels of the largest bison slaughter since the 19th century - over 1,600 bison permanently removed in one winter - the repeated, forceful removal of bison from habitat available on the Gallatin National Forest to flooded habitat inside Yellowstone National Park is indefensible .

44. Many of the same factors that contributed to the mass slaughter in 2008, including heavy snowpack, population size, and agency intolerance for migrating bison are in place this year as well, leading me to believe that this winter's kill will be comparable to the winter of 2008.

45. As mentioned earlier, the snowpack this winter is 130% of average. A heavy snowpack makes it difficult for bison to find adequate forage in the Park's higher elevations and forces them to migrate to lower elevation habitat in Montana, where they are subject to lethal management under the Interagency Bison Management Plan.

46. According to surveys conducted by the National Park Service, the

population going into the winter of 2008 was estimated to be above 4,000. The National Park Service's estimate going into this winter was 3,900.

47. Typically, large-scale capture operations taking place this early in the winter are an indication that the winter's slaughter will be particularly heavy. The first capture operation in the Stephens Creek trap didn't take place until February 8 in 2008 and the Park Service did not have as many bison in the trap as they currently have until February 12 of that year.

48. In August 2009 I witnessed a bull bison from the Yellowstone population shot dead by U.S. Dept. of Agriculture (APHIS) agents after migrating through the Gallatin National Forest and Targhee National Forest into Idaho, south of Twin Creek near the Nature Conservancy's Flat Ranch property.

49. Witnessing these events, and having knowledge that the bison I value and honor are impaired by these actions including capture and slaughter or confinement, harms my interests and prevents me from having the kinds of experiences I value and enjoy and expect on the Forest, in the Park, and on surrounding lands where I live and regularly visit.

50. These harms could be remedied by a court order enjoining the agencies from capturing and killing bison without adequate justification, when no cattle are present, and without evidence that bison are contributing to brucellosis outbreaks in any way; and by requiring the agencies to ensure their management does not impair bison and other natural resources, conserves and protects the integrity of the bison populations and their genetics, and protects sagebrush habitat and other species associated with bison occupying their native habitat.

SPIRITUAL & CULTURAL EVENTS & IMPACTS

51. As noted in my previous declaration submitted in support of our motion for summary judgment, in March 1997 I participated in a National Day of Prayer for the Buffalo, a spirit releasing pipe ceremony for over 1,000 buffalo slaughtered in Yellowstone that winter, led by Lakota leaders Joseph Chasing Horse and Chief Arvol Looking Horse, 19th Generation Keeper of the Sacred White Buffalo Calf Pipe, at Stephens Creek, Yellowstone National Park. During the prayer and pipe ceremony, several participants heard gunshots and later discovered 8 bison shot on Church Universal & Triumphant lands. My friend Rosalie Little Thunder was arrested for trespass by

attempting to pray where Montana Dept. of Livestock agents shot the bison.

52. In February 1999 I videotaped the arrival of Lakota, Algonquin, Apache, Assiniboine, Blackfeet, Crow, Navajo, Nez Perce, Northern Cheyenne, Southern Ute and Tuscarora delegates, among other American Indians present, who had made a 500-mile journey on foot and horseback to Yellowstone National Park to plead with the U.S. government to end the bison slaughter. I gathered with the people to hear elders speak, to hear traditional songs, and observe cultural ceremonies performed near the Arches in honor of the buffalo, and shared in a community meal together to honor all the people who made the 500-mile journey.

53. In April 2008 I participated in the National Day of Prayer for the Buffalo led by Lakota Chief Arvol Looking Horse, 19th Generation Keeper of the Sacred White Buffalo Calf Pipe, and served as a liaison to confirm location of the prayer site at Stephens Creek trap with National Park Service representatives. In part, Chief Looking Horse said the ceremony is for: "These Buffalo that lost their lives in Yellowstone did not die by Natural Law, nor were their spirits honored with ceremony. This is why we must go there to perform a

ceremony of honor for those that lost their lives by the misunderstanding of human-kind and pray to Wakan Tanka (Great Spirit) for pity of how gifts were unappreciated. We must pray with all those who grieve and be grateful for them.” (Arvol Looking Horse, To Save the Buffalo Nation, April 2008).

54. In June 2008 I was invited by Rosalie Little Thunder, Rosebud Lakota tribal delegate to an intergovernmental meeting of Yellowstone National Park and affiliated American Indian tribes in Mammoth, Yellowstone National Park. The tribal delegates expressed their frustration over Yellowstone National Park’s neglect of its trust responsibilities, lack of U.S. government decision makers present, the agency’s ineffective consultation process, and the continuing slaughter of bison by the National Park Service. The tribal delegates called for a cessation of the meeting for prayer and to caucus on how to proceed in the face of these circumstances. To my knowledge, there has been no further intergovernmental meeting of Yellowstone National Park and affiliated American Indian tribes to address tribal concerns and interests.

55. In May 2009 I participated in a sacred fire ceremony and I was asked to look after the sacred fire by Chief Arvol Looking Horse, 19th

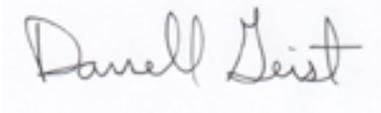
Generation Keeper of the Sacred White Buffalo Calf Pipe, on Horse Butte, to honor the wild bison that seek refuge on the Gallatin National Forest. A community feast was held in West Yellowstone, Montana with stories and honor songs shared with the people who came near and afar to recognize and honor wild buffalo.

56. Scott Frazier, a Santee and Crow Indian from Bozeman, Montana has visited Hebgen basin several times to lead prayer ceremonies for the buffalo that I attended along with members of Buffalo Field Campaign who experience and witness wild bison being forced to flee habitat, or held in captivity in pens on National Forest and National Park Service lands, or shot.

57. Traditional indigenous cultures that view American bison as kin and an enduring part of their culture have much to offer the culture I was born into, who a little more than a century ago drove the wildlife species to the brink of extinction and has not recovered the wild species in their original range. I along with many other people have long sought for our culture to stop harming the wild bison species, to embrace the ecological role of having wild bison exist and adapt as wildlife in their native ecosystems, and pray for relief and remedies from this court that embody this duty and obligation to future

generations. It is my belief and understanding that trapping and killing the native Yellowstone bison is an affront to native peoples and harms their cultural and spiritual relationship with the buffalo. These actions harm my own relationship with the buffalo as well.

Executed the 2nd day of February 2011.

A handwritten signature in cursive script that reads "Darrell Geist". The signature is written in dark ink on a light-colored background.

Darrell Geist