May 7, 2018

APR Scoping Comments
BLM Malta Field Office
47285 Hwy 2
Malta, MT 59538

RE: Comment on BLM American Prairie Reserve grazing allotment proposal
blm_mt_scoping_ncmd@blm.gov

To Whom It May Concern:

These comments are directed to the APR bison grazing proposal, DOI_BLM-MT-L010-2018-0007-EA (American Prairie Reserve). These comments are submitted on behalf of the Montana Wool Growers Association (MWGA) and its membership. The MWGA has a keen interest in government proposals that will, if adopted, result in harm to Montana Agriculture, such as this one.

These comments are also submitted on behalf of, and in conjunction with, any verbal comments already submitted by members of the MWGA during the public meetings held from April 9th through 12th, 2018.

As an initial matter, MWGA’s membership formally requests that the public comment period for submitting scoping comments be extended by 90 days from May 9, 2018. The 30-day time period for submitting comment is clearly inadequate given the significant public interests involved with the proposal, including possible harm to Montana’s largest economic generator, agriculture, and given the quantity of data involve which makes it difficult to provide thorough comment on the issues to be scoped in such a brief time.

Setting aside the aforementioned time extension request, the following are issues the MWGA membership asserts should be scoped.

1. AN EIS IS REQUIRED FOR THE PROPOSED MANAGEMENT ACTION; AN EA IS INADEQUATE.

The BLM proposes to conduct an EA to analyze the APR’s proposal to modify 18 grazing leases in Fergus, Petroleum, Phillips, and Valley Counties.
The management action being proposed is, boiled down to its essence, a proposal to allow bison to roam freely in and across a significant amount of public land in Montana. Given the extensive damage bison can do to the soil and to water sources, there is little question that the environmental effects of this proposal demonstrate that an EA is not a legally adequate mechanism for analyzing the proposed management action.

The proposal to modify 18 existing grazing permits to allow season-long grazing is a major management action that will significantly affect the quality of the human environment, which such actions are required under federal law to receive an elevated level of environmental review and analysis prior to the adoption and implementation of the government action. See, The National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982).

The BLM may undertake the drafting of an EIS without the initial drafting of an EA in several circumstances. For example, an EIS may be performed if the proposed action will, as it does here, have a significant impact on the human or natural environment or if the action is considered an environmentally controversial issue.

The legal and factual realities of the proposal to allow a bison heard to freely run in the heart of Montana are that the proposal is clearly controversial, as is evidenced by the negative public comment submitted during the previously held public hearings, and that the proposal, if adopted, will have a significant impact on adjoining property owners and their livestock operations. The BLM is required by federal law, namely NEPA, to fully consider the environmental attributes and consequences of its management actions. And this proposal, which fundamentally shifts grazing practices on 250,000 acres of public property, is clearly a proposal that warrants a fully environmental review.

The use of an EA for analyzing the APR’s bison proposal does not meet the Agency’s legal and constitutional obligations to fully consider the environmental attributes and impact of this proposed action. The BLM must complete a full EIS prior to approving the APR to modify its BLM permits.

2. THE AGENCY MUST ANALYZE WHETHER THE PROPOSAL, IF INITIATED, WOULD RESTRICT PUBLIC ACCESS OR PUBLIC HUNTING ON PUBLIC LANDS.

Under Article IX, section 7 of the Montana Constitution, Montanans are guaranteed the opportunity to harvest wild game and fish. The present APR proposal would, if approved, result in year-round bison presence on some 260,000 acres of public land. The year-round presence of bison on these public lands may, and will likely, lead to a restriction of public hunting opportunities for Montanans – a circumstance that would not comport with Montana’s Constitution. As such, as part of the EIS conducted by the BLM on the APR proposal, the BLM must analyze whether the proposal would harm or limit the public’s hunting and fishing opportunities. Further, the proposal must analyze whether the presence of bison on these
allotments will displace other forms of wildlife.

3. THE AGENCY MUST ANALYZE THE IMPACT TO THE SOIL AND TO NATIVE PLANT SPECIES THAT WOULD BE CAUSED BY YEAR-ROUND GRAZING.

The APR Proposal seeks BLM approval for removing interior fencing on various grazing allotments. It also seeks BLM approval for allowing year-round grazing on land that was not previously grazed year-round.

On its face, these proposals will likely lead to overgrazing of public rangeland. Overgrazing will result in a corresponding harm to native grasses and other vegetation. Overgrazing of these public lands could harm native wildlife by harming rangeland and forage for wildlife species. As part of the EIS, the BLM must analyze whether the proposal would cause environmental harm to rangeland and native plants and grasses.

4. THE AGENCY MUST DETERMINE THE CARRYING CAPACITY FOR THE RANGETLAND

The BLM must analyze, as part of the EIS, what is the maximum population threshold for bison present on the 18 allotments at issue. The Yellowstone Park bison herd is limited in population size for a reason. This is due to the fact that, as is recognized by the National Park Service, allowing a bison population “to grow indefinitely will cause overgrazing and possibly mass starvation of animals . . . as well as lead to greater conflict (with humans and other animal species).” See, https://www.nps.gov/yell/learn/management/bison-management.htm.

And, according to the NPS, that bison population increases by 10 to 17% every year (a rate ten times faster than the human population grows worldwide). Presumably, this same growth rate can be attributed to the APR’s bison herd.

The APR’s proposal seeks BLM authorization for 4631 AUMs. This proposed bison number seems unreasonably high and arbitrary. Any proposal that calls for free roaming bison is suspect on its face due to overgrazing, property damage, and human safety concerns, but this proposal is particularly suspect given that Yellowstone Park calls for limiting its herd to 3,000 bison. As part of the EIS, the BLM must analyze whether the proposed AUM level is scientifically supported and, if not, must establish a maximum number of bison to avoid causing the environmental harm to rangeland and native plants and grasses that is sure to result from this proposal. Such analysis must include discussion of whether there is an adequate herd management plan in place, and whether the herd size is appropriate for the capacity of the public land at issue.
5. THE AGENCY MUST ANALYZE THE IMPACT THAT WOULD BE CAUSED TO WATER SOURCES

The APR admits that bison are prone to ‘wallow’ in water sources.

The BLM has previously designated the allotments at issue as proper for managed grazing practices. It seems counterintuitive and scientifically unsound for the BLM to subject these allotments and the water sources that accompany them to year-round grazing by a species that is known to cause high environmental degradation.

The BLM should analyze whether the APR bison management practices would be consistent with or run afoul of the Clean Water Act, namely the Waters of the United States Rule. See, Pub. L. 92-500, as amended by Pub. L. 95-217, 33 U.S.C. 1251, et seq.

6. THE AGENCY MUST ANALYZE THE IMPACT OF THIS PROPOSAL ON MONTANA’S AGRICULTURE ECONOMY.

Agriculture is Montana’s top economic generator. In 2015, Montana Agriculture had a $4.6 billion impact. This amount was $1.5 greater than the next leading industry – which was travel. See, http://agr.mt.gov/AgFacts

The Montana Legislature has made the protection of livestock operations, native wildlife and plant species, and agriculture a state priority. See, e.g. M.C.A. 87-5-701.

As part of the EIS, the BLM must analyze whether APR’s proposal to change the allotment classification from cattle to bison and to change the grazing season to year-long grazing will cause harm to agriculture interests and/or the agriculture economy.

Such analysis must include discussion of whether there is a proper herd management plan in place, whether APR will conduct proper animal health testing, whether there are proper disease traceability procedures in place for the bison, and whether individual identification protocols are in place. Further, the EIS should discuss whether the APR’s bison herd management complies with the Montana’s Department of Livestock’s and the USDA Animal and Plant Health Inspection Service’s regulations or whether the bison herd is exempt from the same. What is more, such analysis should include whether the proposed action, namely the change of the allotments character from livestock to bison, will have an impact on the local area.

7. THE EIS MUST CONTAIN AN ALTERNATIVE THAT ANALYZES WHETHER THE HIGHEST LEVEL OF ENVIRONMENTAL PROTECTION IS ASSURED BY LIMITING GRAZING TO A LIMITED NUMBER OF MONTHS AND ON A REST-ROTATION BASIS.
For an environmental review to this EA and/or EIS to be legally adequate under NEPA, the final EA or EIS must discuss and analyze possible alternatives to the proposal. That is, before the preferred management action can be taken, the Agency must, first, have identified all possible alternatives to address the identified problem.

Based on the proposal as submitted, the BLM should explore an alternative that limits bison grazing to a limited time period, rather than authorizing year-round grazing, and that requires that the APR institute a rest-rotation plan for the grazing allotments at issue. These aforementioned grazing practices are often instituted for domestic public lands grazing; and the BLM should put forth an alternative that analyzes whether limited month grazing and required rest-rotation practices are the most environmentally friendly alternative to the APR proposal as it stands.

In addition, a no action alternative must be analyzed. So, too, should an alternative be analyzed that would open all BLM managed allotments in the area to allow for year-round livestock grazing, similar to the proposal now being advanced by the APR.

These alternatives should be identified and analyzed prior to the EA/EIS becoming final.

8. THE EIS PERFORMED ON THE APR PROPOSAL SHOULD ANALYZE WHETHER THE PROPOSAL MAY CAUSE HARM TO SAGE GROUSE HABITAT.

The BLM has taken steps in recent years to manage BLM lands with the goal of protection sage grouse habitat and, conversely, sage grouse populations. As the BLM is surely aware, the BLM adopted around 2015 sage grouse conservation plans that provide guidance and direction for the management of public lands in Montana.

According to the BLM webpage, Montana has nearly 1,000 leks and an estimated 18% of the total greater sage-grouse population. https://www.blm.gov/programs/fish-and-wildlife/sagegrouse/state-sagegrouse-efforts/montana. The BLM has identified the disturbances to Leaks as one of the greatest dangers to the health of Montana’s sage grouse population.

It appears that the public lands contemplated to be turned into a wild buffalo reserve by the APR fall within the ‘HiLine RMP.’ As part of the EIS performed on the APR proposal, the BLM must analyze whether the APR’s proposal is consistent with the BLM’s Montana RMP’s. Specifically, as part of that analysis, the BLM should analyze whether allowing bison to graze public lands containing sage grouse populations may result in disturbances to Leaks and/or may cause harm to sage grouse habitat.
9. THE BLM MUST COORDINATE WITH LOCAL GOVERNMENTS AND/OR OTHER STATE AND FEDERAL AGENCIES, NAMELY INDIAN TRIBES, PRIOR TO FINALIZING ITS EIS ON THE APR PROPOSAL.

NEPA requires federal agencies, such as the BLM herein, to consult parties, organizations, and individuals who may be concerned with the possible effects of an agency action on historic areas. See, e.g. 36 CFR 800.8; see, also, 40 CFR 1508.9. Further, these regulations require the BLM to identify and list the agencies and persons consulted in order to ensure that the proposal being analyzed does not cause an adverse impact under the Clean Water Act, the Endangered Species Act, or the National Historic Preservation Act.

The final EIS performed on this proposal should indicate whether this aforementioned coordination/consultation has occurred, or will occur. The failure to coordinate, particularly without the public input or a public process, impairs or destroys the integrity of the NEPA required public involvement in this environmental review process.

Before being finalized, this EIS should discuss whether the BLM has coordinated with county officials, namely county commissioners, in Fergus, Petroleum, Phillips, and Valley Counties, as to the social and economic impact of allowing a free range bison herd on their constituency and communities.

Again, a full-blown EIS should be conducted on the proposal. Such an analysis should be done in consultation with and coordination with BOTH County and Tribal officials.

10. THE EIS MUST ANALYZE WHETHER THERE ARE ADEQUATE PROTOCOLS IN PLACE TO ENSURE THAT OTHER PRIVATE LANDOWNERS WHO ARE LOCATED PROXIMATE TO THE GRAZING ALLOTMENTS ARE PROTECTED.

The NEPA analysis performed on the APR’s project must analyze whether the APR and/or the BLM have adequate protocols in place should a buffalo break containment. Such analysis should include any protocols for lethally dispatching bison and/or for holding adjoining landowners harmless for any damage that may done to their property or operations as a result of the failure of the APR to keep its bison within the allotments.

On behalf of the membership of the Montana Wool Growers Association, we thank you for this opportunity to submit public scoping comment on the APR proposal to modify their BLM grazing permits. The Association has encouraged individual members of the Association to submit their own comments detailing how the actions proposed by the APR, if approved by the BLM, will burden their agriculture operations and how the human environment in the affected areas will be impacted.

In sum, MWGA has strong concerns about the damage that will be done to Montana’s native wildlife and plant species, livestock operations, agriculture production, hunting
opportunities, and human health and safety should the APR’s free roaming bison proposal be adopted as presently constituted. MWGA urges the BLM to seek additional public input on and to complete a full environmental impact statement for this planned action and to provide a thoroughly detailed and scientifically supported basis for the accompanying decision-making.

Any questions, comments or concerns regarding the content of the remarks contained herein may be directed to the undersigned by emailing thunderdomeemail@gmail.com.

Sincerely,

James E. Brown
MWGA Public Affairs

cc: MWGA Board