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From: Matthew Thurlow

Message:

Notice of Intent to File Suit Regarding Wild Bison Hunting Near Beattle Gulch

If this transmission is not complete, please call Theresa Sneath at 202-861-1737.

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Re: Notice of Intent to File Suit Regarding Wild Bison Hunting Near Beattie Gulch

Dear Ms. Erickson and Mr. Sholly:

This letter constitutes notice by Neighbors Against Bison Slaughter ("NABS") that the National Forest Service ("Forest Service"), National Park Service ("NPS"), and United States Department of Agriculture (collectively, "the Federal Agencies") have violated federal law by failing to impose reasonable restrictions on the migration and hunting of wild bison in Beattie Gulch, Montana, on NPS and U.S. Forest Service lands. If the Federal Agencies do not immediately comply with their statutory obligations within thirty days, NABS and/or its members intends to file lawsuits against the Federal Agencies in United States District Court and/or the U.S. Court of Federal Claims.

Hunting in Beattie Gulch Threatens Public Safety

Over the past six years, the Federal Agencies have acted arbitrarily and capriciously and unreasonably in managing the movement of hundreds of wild bison out of Yellowstone National Park, and the hunting of those bison on U.S. Forest Service land in a bottleneck adjacent to private property in Beattie Gulch, Montana. The dangerous and poorly regulated bison hunt threatens the lives of hunters, observers, and local residents, befouls, damages, and renders the

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private property near the hunt uninhabitable for months, and undermines and neglects the welfare of the United States' national mammal.

The Federal Agencies approved the hunt through the Interagency Bison Management Plan ("IBMP"), a plan that has not been updated or amended for nearly twenty years and included no formal consideration of the health, safety, and environmental impacts of wild bison hunting in Beattie Gulch. The Federal Agencies most recently agreed to extend wild bison hunting in Beattie Gulch through the December 31, 2018, Operating Procedures for the IBMP ("The 2018-2019 Winter Decision"). Absent any intervention, the Federal Agencies may approve a similar plan for the 2019-2020 hunting season.

The Federal Agencies have used the IBMP as a vehicle to absolve the agencies of all responsibility for the travesty that is occurring in Beattie Gulch as hundreds of bison (including pregnant females and calves) are released from Yellowstone Park and then slaughtered by firing squads consisting of dozens of hunters as soon as they step foot on U.S. Forest Service land. Hunters leave behind hundreds of "gut piles," each of which can weigh well over a thousand pounds. This offal rots in the open, attracts wildlife (that may include grizzly bears and gray wolves), finds its way into trees and yards on private property (from raptors), and turns the entire local area into an open-air charnel house. The massive "gut piles" can transmit disease and pose a significant health threat to people, pets, livestock, and wildlife in the area.

The IBMP Has Failed to Protect Local Residents

The IBMP has failed to respond to the concerns of neighbors and residents who live only a few hundred yards away from the bison-hunting horror show. Concerned residents have objected to the situation at IBMP meetings for years, but the IBMP has ignored them, sidelined legitimate concerns in favor of its own interests, and chosen to do nothing to limit the hunt as local residents have been forced to flee the area for months at a time and have suffered significant business losses, and, in some cases, severe emotional trauma. Indeed, the hunt has continued to expand as the Federal Agencies have agreed to release more bison from Yellowstone Park and to allow more tribes to participate in an already dangerous and poorly regulated hunt. Rather than address this untenable situation, the Federal Agencies have foisted the dangerous and concentrated impacts of bison hunting in this tiny geographic area onto a small group of residents and neighbors.

The Federal Agencies Have Violated the Law

The Federal Agencies can no longer ignore that this hunting takes place on federal land under its jurisdiction and control. Accordingly, NABS or its members intend to file claims, including those described below, against the Federal Agencies.

- The National Park Service has arbitrarily and capriciously violated the Yellowstone National Park Act Amendments (16 U.S.C. § 36), which authorize the Secretary of the Interior to sell "or otherwise dispose" of Yellowstone's wild buffalo. The NPS has abused its discretion by controlling the migration of bison out of Yellowstone Park and

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by directing them to an area where the NPS knows they will be immediately slaughtered adjacent to private property and under conditions that threaten the environment, private property, and human health and safety.

- The Forest Service has violated the National Forest Management Act of 1976 (16 U.S.C. §§ 1600-1614), the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. §§ 528-531), and other statutes (16 U.S.C. §§ 521a, 551a, 553, 572(b), 574) by arbitrarily and capriciously managing Custer Gallatin National Forest, including the land under the Forest Service's jurisdiction in and near Beattie Gulch. The Forest Service has failed to take measures to ensure the health and public safety of visitors, hunters, and nearby residents and neighbors in and near Beattie Gulch. Also, the Forest Service has failed to provide the millions of visitors to the National Forest System, including Custer Gallatin National Forest, an opportunity to enjoy wild bison and to study, observe and take photographs and videos of them (while still alive).
- The Federal Agencies have violated the National Environmental Policy Act of 1969 ("NEPA") (42 U.S.C. §§ 4321-4370f), by taking final agency actions without preparing an Environmental Impact Statement ("EIS") that analyzes the impacts of hunting in Beattie Gulch, including the impacts on human health and safety, the environment, local wildlife, traffic, and adjacent private property. The Federal Agencies have failed to analyze and to consider alternatives. For example, the Federal Agencies have failed to analyze the possibility of bison hunting on other federal and state lands, allowing bison migration and hunting in other areas of Custer National Gallatin Forest, or transferring wild bison to tribes for hunting. NEPA prohibits the Federal Agencies from delegating these analyses to Montana, and Montana's actions qualify as connected actions. NEPA regulations require the Federal Agencies to analyze those connected actions together in a single document.¹ Before acting further, therefore, NEPA requires the Federal Agencies to complete a supplemental EIS that analyzes those impacts.
- The Forest Service and National Park Service have unlawfully and without just compensation taken the private property of NABS members by allowing unsafe and poorly regulated bison hunting to occur only a few hundred yards from their private residences and businesses. The Federal Agencies have physically invaded, taken easements, and constructively evicted local Beattie Gulch residents from their private homes and businesses for several months of every year.

Demand for Immediate Relief

NABS and its members hereby demand that the Federal Agencies immediately suspend the upcoming hunting season (2019-2020) in Beattie Gulch until the Federal Agencies can ensure

¹ Indeed, we understand that the Federal Agencies, together with the Animal and Plant Health Inspection Service, pay for the majority of the bison management activities under the 2000 IBMP Record of Decision ("ROD"). If so, all of the activities under that ROD qualify as connected, federal actions.

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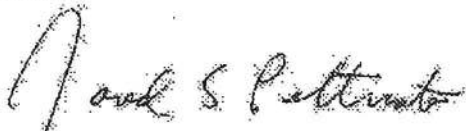
that any future wild bison hunting is conducted under organized, safe, and humane conditions. NABS's members also demand that the federal agencies provide just compensation for the damages and "takings" they have incurred over the past six hunting seasons as the result of the federal agencies' decision to allow the hunting to take place in Beattie Gulch (including lost rents, business losses, and costs associated with displacement during the winter months).

If you have any questions regarding this letter or require additional documentation of any of the information described above, please reach us at mthurlow@bakerlaw.com (202-861-1681) or Jared@JaredPettinato.com (406-314-3247).

Sincerely,



Matthew D. Thurlow
Partner



Jared Pettinato
Jared Pettinato Law Offices
Co-Counsel

cc: Leonard W. Gray, Confederated Salish and Kootenai Tribes, Chairman
Ervin Carlson, Intertribal Buffalo Council, President
McCoy Oatman, Nez Perce Tribe, Chairman