

# Summary Report from Interagency Bison Management Plan Meeting February 2, 2010

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The following summary report reflects activities at the February 2<sup>nd</sup> meeting of the IBMP partners, held at Montana Fish, Wildlife, and Parks in Bozeman and hosted by Montana Department of Livestock. This report comes from the notes and flip chart records of facilitator Scott Bischke. The report contains a *Facilitator's Draft* watermark to recognize that as presented the IBMP partners have not reviewed these notes and accepted the facilitator's recollection/interpretation of events. Attendee deliberators included IBMP partners Mary Erickson (GNF), Pat Flowers (MFWP), Suzanne Lewis (YNP), Christian Mackay (MBoL), Brian McCluskey (APHIS), and Marty Zaluski (MDoL), along with tribal representatives Ervin Carlson (ITBC) and Tom McDonald (CSKT). In addition to those at the deliberative table, ~15 staff members from across IBMP organizations and ~15 members of the public were present. A scanned attendance sheet is available from the facilitator.

## Contents

<b>Partial list of Abbreviations.....</b>	<b>2</b>
<b>Action items identified on November 17<sup>th</sup> and 18<sup>th</sup> .....</b>	<b>2</b>
<b>Meeting summary notes .....</b>	<b>3</b>
Informational Updates.....	3
<i>CSKT agreement to invitation to participate in the IBMP .....</i>	<i>3</i>
<i>ITBC Federal Charter.....</i>	<i>3</i>
<i>Bull bison study in Zone 2.....</i>	<i>3</i>
Request by County Commissioners to Participate in the IBMP .....	3
Deliberations on West Side Adaptive Management Strategies for winter/spring 2010 .....	4



## Partial list of Abbreviations

- AM—Adaptive management
- APHIS—Animal and Plant Health Inspection Service
- BB—Brooklyn Baptiste
- CM—Christian Mackay
- CSKT—Confederated Salish Kootenai Tribes
- GAO—Government Accountability Office
- GNF—Gallatin National Forest
- GP—Glenn Plumb
- GYA—Greater Yellowstone Area
- ITBC— InterTribal Bison Cooperative
- JD—Jerry Diemer
- MBoL—Montana Board of Livestock
- MDOL—Montana Department of Livestock
- ME—Mary Erickson
- MFWP—Montana Fish Wildlife and parks
- MOU—Memorandum of Understanding
- MSU—Montana State University
- MZ—Marty Zaluski
- NEPA—National Environmental Policy Act
- NGO—non-governmental organizations
- NP—Nez Perce
- NPS—National Park Service
- PF—Pat Flowers
- PIOs—Public Information Officers
- RC—Ryan Clarke
- RoD—Record of Decision
- RT—Rob Tierney
- RTR—Royal Teton Ranch
- SEIS—supplemental EIS
- SK—Salish Kootenai
- SL—Suzanne Lewis
- TM—Tom McDonald
- YNP—Yellowstone National Park

## Action items identified on November 17<sup>th</sup> and 18<sup>th</sup>

#	Who	What	By when
1	MDOL lead w/ Partners	Create a shared list of questions that each Partner can take to their respective legal counsel regarding what qualifies a group to be added to the deliberative table of the IBMP. Part of the letter should address the potential that other tribes may assert treaty hunting rights. Once that list is created, send to attorneys and ask for responses before Ap 14 meeting so that they can be discussed there.	Before April meeting
2	MDOL for Partners	Write letter to Park, Madison, and Gallatin county commissioners on behalf of Partners stating willingness of Partners to periodically attend county commission meetings and provide IBMP status update. Expectation would be that only one Partner would attend on behalf of all Partners. Best time for reporting would be early June.	Before April meeting
3	Technical Committee	For Shane/Rob with Jim—consider and return with analysis of the possibility of building a fence along the Madison Arm	Before April meeting
4	Partners	Begin Partner operational discussions earlier, in mid-March, schedule weekly conversations to keep everyone informed of bison movements.	Before April meeting

## Meeting summary notes

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Due to multiple facilitator activities, the notes presented are not comprehensive but hit highlights of Partner discussions. Interested parties are asked to see the IBMP web site ([www.ibmp.info](http://www.ibmp.info)) where briefings and other documents created at this meeting are posted.

### INFORMATIONAL UPDATES

Several updates were presented before getting to the core of the meeting:

#### **CSKT agreement to invitation to participate in the IBMP**

Tom McDonald presented a formal letter of acceptance from the Confederated Salish Kootenai Tribes regarding their willingness to participate at the deliberative table of the IBMP. The letter came from Ernest Moran, the Chair of the Tribal Council for the Confederated Salish Kootenai Tribes.

#### **ITBC Federal Charter**

Christina Kracher provided a memorandum to the Partners clarifying ITBC legal status: On November 19<sup>th</sup>, 2009 the Secretary of the Interior granted Federal Charter status to the ITBC. Christina reported that at that moment the ITBC was in the process of dissolving itself as a state incorporated not for profit corporation and restructuring as a federally chartered entity (i.e., a nontaxable *federal* entity similar to individual Indian tribes).

#### **Bull bison study in Zone 2**

Ryan Clark reported that documentation for a bull bison study should be ready in ~1 week. Purpose of the study is to help determine what role bull bison play in brucellosis transmission. The study focuses on determining how much, if any, Brucella exists in bull bison semen.

### REQUEST BY COUNTY COMMISSIONERS TO PARTICIPATE IN THE IBMP

In separate letters from their respective county commissioners, Park County (12/4/09) and Madison County (12/8/09) requested that counties surrounding the GYA and directly impacted by bison issues be included at the IBMP deliberative table. The letters follow public comment from a Park County Commissioner to the same effect at the November 2009 IBMP meeting held in Livingston. Park County Commissioner Marty Malone attended the meeting and lead the discussion. Mike Harris of Gallatin County was also in attendance. There were no attendees from Madison County.

Commissioner Malone noted that the IBMP deals with private lands, yet private landowners are not currently represented at the deliberative table. He requested that the County Commissioners take part in deliberations beyond simply during public comment period. He also noted that local law enforcement plays a part in actions associated with IBMP efforts, and that cattle ranchers had a concern regarding the need to test for brucellosis every year.

Partners responded that 1) any IBMP action on private lands requires consent from owners, 2) no private rights have been violated in the last 10 years (with one exception on Horse Butte), 3) IBMP gets its authority from the RoD and that the RoD has no stipulation for incursion on private or county lands without permission.

Partners stated openness to including county commission participation with the IBMP but struggled with the question of how that participation could be structured. Legal issues, in particular, were noted. A statement was made that the state and federal entities are decision makers under the RoD, but that tribes and counties could be part of information sharing. Several questions were asked about how legal counsel for any of the Partners might react to the addition of County Commissioners, how legal counsel would (or did) react to the recent addition of the three tribal entities (NP, SK, and ITBC) to the deliberative table, and just how big the deliberative table could become.

Several points resulted from this discussion:

- It was noted that the tribes are sovereign governments with treaty rights (NP, SK) that supersede federal and state law, making them unique from county commissions or NGOs.
- The Partners noted that there has been on-going discussion about creating a citizen working group that might provide for county commission input.

- Multiple restatements that legal authority is bestowed by the RoD to just the five Partner agencies and that due to that authority they have certain responsibilities that ultimately—regardless of how big the deliberative table might become—the Partners alone must shoulder.
- The Partners returned several times to the question: What would be the role and responsibilities of the county commissions if they sat on the IBMP?

The result of this discussion was that the Partners decided to ask their respective legal counsels to comment on legal authorities/responsibilities under the RoD, and what process and qualifications are required for a group to be added to the deliberative table (see action item 1). It was noted that this query and resulting opinions could reflect negatively on the addition of the ITBC to the deliberative table, since unlike the NP and SK, the ITBC does not have explicit treaty hunting rights. ITBC representatives had concerns about this outcome. Also, in response to a question that possibly ITBC could represent all the tribes the response came that such an idea was not possible as the NP and SK have individual treaty rights.

Commissioner Malone stated that IBMP needs more input from the public, and also said that the Partners (i.e., the actual decision makers, not designees) need to come to county commission meetings. The Partners agreed that yes they should regularly report to the county commission on IBMP status, and/or be available for related public meetings. This statement turned into action item 2. Partners returned to the idea of a FACA or similar citizen working group. A question was asked as to whether the counties could help organize or push for such a state-convened working group. A statement was put forth that possibly a citizens' working group would not provide county commissioners sufficient input to IBMP decision making. However, Commissioner Malone stated a willingness to participate in a citizens' group, should one be formed, for one year and see if that venue provided sufficient input to answer county commission concerns.

#### **DELIBERATIONS ON WEST SIDE ADAPTIVE MANAGEMENT STRATEGIES FOR WINTER/SPRING 2010**

At the November IBMP meeting the Partners were not able to reach consensus on winter/spring operations on the West Side of YNP and referred the discussion to the Technical Committee. This group was also not successful between the two meetings in coming to a consensus regarding upcoming West side operations. Thus the Partners returned to these discussions for this meeting. In brief, MDOL recommended the following trigger points for management actions based on one year of supporting data (the MDOL proposal for West Side operations can be found under the meetings notes for this meeting on [www.ibmp.info](http://www.ibmp.info)):

1. Increase of over 100 bison between any two measurements in WMA during any week after Feb 15
2. 15 bison a day increase for 3 days or more in a week
3. 15 bison in Flats with snowmobile access to riparian areas
4. Over 100 bison in WMA between Feb 15th and April 10
5. Other trigger points same as articulated in most recent AM but with 15 instead of 30

MDoL stated frustration that the Technical Committee provided comments to the effect that the MDOL proposal is unjust. MDOL stated openness to alternative ideas (during this meeting and earlier Technical Committee meetings) to its proposal, provided that hazing of bison was allowed after Feb 15<sup>th</sup> and bison numbers were restricted south of the Madison Arm. MDoL felt that no new ideas were put forward to avoid Zone 3 incursions. However, the NPS stated that it had provided an alternative proposal during the Technical Committee conference call that was rejected by MDoL. The NPS also stated that it provided ideas in a letter to the IBMP managers prior to the IBMP meeting. MDoL stated its goal is to keep the Zone 3 boundary intact. There was some Partner sentiment stated that there was no increased risk of brucellosis transmission to cattle during the previous winter.

The Partners noted that there were several exchanges of letters that included position declarations in response to MDOL's proposal: YNP written and sent out 1/26/10; ITBC (1/29/10) and MDOL (2/1/10) distributed at the meeting. Subsequent to the meeting APHIS also provided a letter to IBMP Partners dated 2/24/10. These letters can be found at [www.IBMP.info](http://www.IBMP.info).

A great deal of discussion followed with the following five key questions discussed through much iteration and from many angles:

1. *How many years constitute a trend on which Adaptive Management changes can be made?* Given the new AM plan signed in December of 2008, is one year worth of data sufficient to make changes on the ground? If not, will two years be enough? Will three? A statement was made that the MDOL proposed changes simply follow AM process. A counterstatement was made that even with incursions into Zone 3 over the last 9 years there has been no brucellosis transmission from bison to cattle—and no increase in the risk of transmission to cattle.
2. *Under the current AM plan does MDOL already have the authority to institute the changes it is recommending with no change to the AM plan?* Most Partner discussion seemed to say yes. One Partner said that because of a current lawsuit they cannot endorse a change to the AM even if they were so inclined, which they were not. However, MDOL felt that no, the Partners act as Partners and thus want this authority to be stated via their recommended changes in the AM plan. A question was asked: What would MDOL do if the Partners could not reach consensus on MDOL's requested AM changes? MDOL responded that being in the same place as last year was not acceptable, and also not in keeping with the spirit of AM (i.e., learning from the data and reacting to it).
3. *An open question to all—is there any way to provide new resources so that Zone 3 incursions do not occur?* On the ground personnel stated that it was not possible to keep animals in place at Cougar Meadows and that 3 or 4 more people would not help. Issues include difficulty hazing bison in the timber and safety conflicts with recreationalists in May. Positive statements were made about the likelihood that strategic fencing (already part of the AM plan) does have the potential to work but would be difficult, expensive, and take time to implement. Another idea put forward was a possible interim step—completely fence the Madison Arm road ~5 miles in from the highway, with cattle guards to push the Bison to where group desires them to go (this turned into Action item #3). Discussion of temporary electric fences was broached, then largely dismissed as a big management problem given deep snow and spring melt conditions.
4. *If changes are to be made to the AM Plan, are the five requested MDOL changes the correct ones?* Several statements were made that even if there are changes to be made in the AM Plan based on one year data, that the proposed changes overstep what the data warrants. One suggestion was that the plan was too conservative and that only proposed change #5 (which says, in essence, let's react sooner in an effort to stop Zone 3 breeches) with change of trigger from 30 to 15 might be warranted.
5. *Could the hazeback date be moved?* The initial discussion started with the concept of moving it earlier but statements were made that the actual "earliest possible" date is highly dependent on snowpack and weather and thus it is just logistically tough to go earlier. Also, a statement was made that while the NP recognize a closing date for hunting of Mar 14, the Shoban recognize no season end thus potential conflict/safety issue is always possible. Through discussion it was recognized that the group had discussed this idea at the August 2009 meeting. Notes from that meeting state (pg. 6, see [www.ibmp.info](http://www.ibmp.info)), "...Recommendations under the following AM actions were parked: 1.1A, 1.1C, 3.2A. These three recommendations were parked due to time constraints. All three deal with on/off the landscape timing, hazing, and number constraints on bison being outside the Park. The Partners came up with possible plan to forgo hard # and date deadlines and instead form a committee that every year looks at prevailing conditions (key variables include new brucellosis persistence data, snow pack, # and location of bison out, status of green up in the Park, river levels [impact bison crossing ability]) in late Apr/early May and then each year set the date recognizing that it could be earlier or later than May 15. This thought process, though not yet agreed upon, was vetted for quite some time, and was largely based on monitoring data presented as part of AM plan. One thought put forth was that the current recommendations for these three items could then be changed to say that the Partners buy into a late April/early May decision making process by a committee using current data and dynamic ecological modeling to determine haze back timing. It was recognized that this could mean earlier or later than May 15<sup>th</sup> haze back, and that it might, for example, lead to hazing from Zone 2. A constraint noted was that Park Service

personnel can have limited availability once tourist season starts and they need to turn to people management and similarly that late bison return could create safety issues due to increased traffic....”

A closing statement was made to the effect that the discussions had not progressed greatly, but there were two things that the Partners could pledge to do: be more interactive this year and start more intensive conversations earlier (this idea turned into Action item #4). FWP asked if a fence at Baker’s Hole could be implemented as an emergency action by GNF; MDOL seconded the idea. However GNF stated that they did not have authority under the current situation to move toward an emergency action.

No member of the public signed up to provide input during the 30 min slot allotted for public comment. The meeting closed at ~11:30 AM.

facilitator's draft