



## COALITION OF LOCAL GOVERNMENTS

1689 COUNTY ROAD 263  
FORT BRIDGER, WY 82933

COUNTY COMMISSIONS FOR SWEETWATER, LINCOLN, AND UINTA, AND CONSERVATION DISTRICTS FOR LINCOLN,  
LITTLE SNAKE, SWEETWATER, UINTA, AND SUBLETTE - WYOMING

August 31, 2023

VIA REGULATIONS.GOV WEBPAGE

Alice Lee, Conservation Planner  
Attn: FWS-R6-NWRS-2023-0062  
U.S. Fish & Wildlife Service  
MS: PRB/3W  
5275 Leesburg Pike  
Falls Church, VA 22041-3803

Re: Comments on Notice of Intent to Prepare an Updated Bison and Elk Management  
Plan for the National Elk Refuge

Dear Ms. Lee,

The Coalition of Local Governments (“CLG” or “Coalition”) submits the following scoping comments on the U.S. Fish and Wildlife Service’s (“Service”) Notice of Intent to Prepare an Updated Bison and Elk Management Plan (“BEMP”) for the National Elk Refuge (“Refuge”) in Wyoming. The Coalition supports maintaining a population of bison and elk within the Refuge that corresponds to the current carrying capacity of the Refuge and nearby native ranges. In addition, the Coalition supports the continued use of feedgrounds to help maintain the populations and prevent conflicts with and the spread of brucellosis to nearby livestock located on private lands.

### **I. STATEMENT OF INTEREST**

The Coalition is a voluntary association of local governments organized under the laws of the State of Wyoming to educate, guide, and develop public land policy in the affected counties. Wyo. Stat. §§11-16-103, 11-16-122, 18-5-201. Coalition members include Sweetwater County, Uinta County, Lincoln County, Lincoln Conservation District, Sweetwater County Conservation District, Uinta County Conservation District, Sublette County Conservation District, Little Snake River Conservation District, and Star Valley Conservation District. The Coalition serves many purposes for its members, including the protection of vested rights of individuals and industries dependent on utilizing and conserving existing resources and public lands, the promotion and support of habitat improvement, the support and funding of scientific studies addressing federal

land use plans and projects, and providing comments on behalf of members for the educational benefit of those proposing federal land use plans and land use projects.

Both the County and the District have authority to protect the public health and welfare of Wyoming citizens while promoting and protecting public lands and water resources. Wyo. Stat. §§ 11-16-122, 18-5-208. The District has statutory authority to develop and implement comprehensive resource use and management plans for range improvement and stabilization, conservation of soil, water and vegetative resources, control and prevention of soil erosion, and for flood prevention. Wyo. Stat. § 11-16-122(xvi). The District's jurisdiction includes matters pertaining to the acquisition, construction, operation or administration of any land utilization, soil conservation, erosion control, erosion prevention, flood prevention projects, conservation of water, water utilization, disposal of water in watershed areas, and other water projects. Wyo. Stat. § 11-16-122(xix). In carrying out this statutory authority, the Districts are working "to stabilize ranching and farming operations, to preserve natural resources, protect the tax base, control floods, prevent impairment of dams and reservoirs, preserve wildlife, protect public lands, and protect and promote the health, safety and general welfare of the people of this state." Wyo. Stat. § 11-16-103(b). The Districts also work cooperatively with federal agencies in the development and implementation of federal land use plans to ensure consistency with local land and resource plans. Wyo. Stat. § 11-16-122(viii).

By statute, the County is "deemed to have special expertise on all subject matters for which it has statutory responsibility, including but not limited to, all subject matters directly or indirectly related to the health, safety, welfare, custom, culture and socio-economic viability of a county." Wyo. Stat. Ann. §18-5-208. As such, the County "may regulate and restrict . . . the use, condition of use or occupancy of lands for residence, recreation, agriculture, industry, commerce, public use and other purposes in the unincorporated area of the county." Wyo. Stat. Ann. §18-5-201.

## **II. COOPERATING AGENCY CRITERIA**

The potential alternatives for bison and elk management on the National Elk Refuge will be evaluated according to the National Environmental Policy Act ("NEPA"), and the Council on Environmental Quality ("CEQ") regulations and guidance require the inclusion of non-federal government agents when they have "jurisdiction by law and or special expertise with respect to reasonable alternatives or significant environmental, social or economic impacts associat[ed] with a proposed action." CEQ Memorandum, *Designation of Non-Federal Agencies to be Cooperating Agencies in Implementing the Procedure of the NEPA*, at 1 (July 28, 1999); 40 C.F.R. §§ 1501.8(a), 1508.1(e). The NEPA process shall be conducted "in cooperation with State and local governments" and "any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved." 42 U.S.C. §§ 4331(a), 4332(C); CEQ Memorandum, *Cooperating Agencies in Implementing the Procedural Requirements of the NEPA*, at 1 (Jan. 30, 2002). The Coalition appreciates the Service's coordination and cooperative management of the bison and elk herds with other Federal agencies and the Wyoming Game and Fish Department ("WGFD"). And while the Refuge is located to the north of Lincoln and Sublette

Counties, this elk herd population's herd unit is near the norther border of these two Counties. Therefore, the Coalition would request that Lincoln County, Star Valley Conservation District, and Sublette County Conservation District be offered and granted cooperating agency status for this Project if not already done.

The CEQ regulations define jurisdiction by law to mean "agency authority to approve, veto, or finance all or part of the proposal." 40 C.F.R. §1508.1(n); CEQ Memorandum, *Cooperating Agencies in Implementing the Procedural Requirements of the NEPA*, at 4 (Jan. 30, 2002). Lincoln County, Star Valley Conservation District, and Sublette County Conservation District, and their duties under Wyoming law, will be indirectly impacted by management of bison and elk on the Refuge. Specifically, how elk are managed on the Refuge and amount of supplement feed provided will impact the elk herds and their need to find additional vegetation in the winter months outside of the Refuge onto National Forest, state, and private lands.

The CEQ regulations define special expertise as a "statutory responsibility, agency mission, or related program experience." 40 C.F.R. §1508.1(ee). The CEQ guidance also looks to whether a non-federal agency has expertise as to the alternatives in the EIS or the significant environmental, social, or economic impacts associated with the proposed action. CEQ Memorandum, *Cooperating Agencies in Implementing the Procedural Requirements of the NEPA*, at 2, 4 (Jan. 30, 2002). A non-federal agency that has "expertise regarding the proposed actions' relationship to the objectives of regional, State and local land use plans, policies, and controls (1502.16(c))" would be allowed cooperating agency status. *Id.* at 4. Lincoln County, Star Valley Conservation District, and Sublette County Conservation District are well-versed in the vegetative resources, range management, grazing practices, and overall socio-economics of the two Counties. They also have substantial background in ensuring that proposed federal actions are consistent with local and federal land use plans and policies.

### **III. CONTINUE UTILIZATION OF WINTER FEEDGROUNDS WITHIN THE REFUGE**

Management of bison and elk on the Refuge must not interfere with the domestic livestock carrying capacity, and any updates to the BEMP should not completely eliminate winter feedgrounds. While it has been the Service's objective to reduce the need for supplemental feed and instead have the bison and elk rely upon native habitat and forage on the Refuge, the Service must ensure that the Refuge and surrounding native winter range has the carrying capacity to support both the bison and elk herds during the winter months. Any updates to the BEMP and any proposed reduction in supplement feed must also take into consideration urban sprawl. Development and urban sprawl has decreased the natural winter range for elk over the years, and thus has the potential to contribute to issues regarding sufficient vegetation for bison and elk during winter months.

At the public scoping meeting on August 23, 2023, it was noted that the BEMP revision is for management within the Refuge only and would not affect other special use permits for

feedgrounds located outside the Refuge. However, if the feedgrounds are reduced within the Refuge, it is more likely that in the winter months elk will wander outside the Refuge and their native winter range, onto private lands and/or the state feedgrounds, searching for vegetation. There is also the concern about the cumulative impact an across-the-board reduction in winter feedgrounds will have on all elk herd units. The Refuge is not the only project considering reducing the winter feedgrounds as the State is currently in the process of trying to renew its long-term special use permit for other elk feedgrounds located on the National Forest. The Service must make sure to consider this in its own analysis and proposed BEMP for the Refuge's supplemental feed program.

The feedgrounds, including those located outside of the Refuge but within the National Forest, are even more important during harsh winters, like the one Wyoming experienced this year. This past winter, the Wyoming Game and Fish Commission ("WGFC") responded to an increased number of elk causing damage to private lands as the elk sought forage at livestock feeding operations. WGFC had to initiate emergency supplemental elk feeding in Star Valley due to the increased damage and risk of co-mingling with livestock.

#### **IV. ADDRESSING DISEASE CONTROL**

While feedgrounds, feed days, and feed season length have been actively reduced in an effort to limit the spread of brucellosis and chronic wasting disease between elk and bison, when feedgrounds are reduced, it is more likely that elk will travel to private lands for feed in the winter. This is when you start to see more conflict with domestic livestock and potential transferring of diseases from the elk herds to domestic livestock. Thus, feedgrounds do have the benefit of maintaining the elk populations in the area and preventing conflicts with, and the spread of brucellosis to, nearby livestock located on private lands. In order to minimize such conflicts, the BEMP should not be proposing to completely eliminate the winter feedgrounds within the Refuge.

The Coalition appreciates the opportunity to submit comments and its members look forward to working with the Service in developing the new BEMP.

Sincerely,

A handwritten signature in cursive script that reads "Eric South".

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Eric South, Chairman  
Wyoming Coalition of Local Governments