

**FINAL BISON AND ELK MANAGEMENT PLAN
AND ENVIRONMENTAL IMPACT STATEMENT**

for the

**NATIONAL ELK REFUGE / GRAND TETON NATIONAL PARK /
JOHN D. ROCKEFELLER, JR., MEMORIAL PARKWAY**

Teton County, Wyoming

**Volume 2: Comments and Responses on the Draft Bison and Elk Management Plan and
Environmental Impact Statement.**

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INTRODUCTION

Volume 2 of the *Final Bison and Elk Management Plan and Environmental Impact Statement* (Final Plan/EIS) includes the following components:

- copies of written comments from federal agencies, American Indian tribes, state governmental agencies, and organizations, and responses to substantive comments
- a summary of comments received from individuals, and in petitions and form letters, and responses to substantive comments
- transcripts of the public hearing testimony

The *Draft Bison and Elk Management Plan and Environmental Impact Statement* (Draft Plan/EIS) was released to the public for review and comment on July 21, 2005. In addition, the U.S. Fish and Wildlife Service and the National Park Service held a series of public open houses and formal hearings to allow public input on the proposed management plan and its alternatives. These meetings were held in Bozeman, Montana; Jackson, Wyoming; and Riverton, Wyoming. The agencies received over 11,900 comments total, which were included in letters from 37 agencies or organizations, in public hearing testimony, letters, and e-mails from 241 individuals, and in form letters or petitions signed by 1,751 people.

A primary purpose of this document is to address the substantive comments received on the Draft Plan/EIS. As defined in the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act, comments are considered substantive if they:

- question, with reasonable basis, the accuracy of the information in the document
- question, with reasonable basis, the adequacy of the environmental analysis
- present reasonable alternatives other than those presented in the environmental impact statement
- cause changes or revisions in the proposal

Comments and responses are presented in three sections.

- The first section includes copies of comments made by governmental agencies and organizations. Beside each reproduced letter is the response of the lead agencies (the U.S. Fish and Wildlife Service and the National Park Service), numbered to correspond to specific comments in the letter.
- The second section includes a summary of the comments made by the general public or other entities. In compliance with the policies of the U.S. Fish and Wildlife Service and the National Park Service regarding disclosing personal information, no names, addresses, or other personal information of individuals who commented have been published (agencies and organizations are excluded from this policy). Instead of printing every letter from individuals and blocking out all personal information, and in the interest of conserving paper, the agencies have summarized the general nature of the comments received and tracked the number of individuals that expressed each general comment. The agencies responded to all comments that are substantive, including comments made in writing or orally at one of the public meetings. Many of the comments made by the public are similar to the range of issues and concerns that were addressed in the first section.
- The third section includes public hearing testimony. The names of individuals who spoke are reprinted, as that testimony was made in a public hearing forum.

Public comments and hearing testimony will be available for review during normal business hours at the National Elk Refuge Headquarters, 675 East Broadway, Jackson, Wyoming. Personal information will be blocked out on the individual comment letters available for public review. Where appropriate, the text of the Final Plan/EIS, as presented in volume 1, has been revised to address the comments in this volume.

COMMENTS FROM AGENCIES AND ORGANIZATIONS

LIST OF AGENCIES AND ORGANIZATIONS

Letter No. Federal Agencies

1. U.S. Animal and Plant Health Inspection Service. U.S. Department of Agriculture
2. U.S. Environmental Protection Agency

Native American Tribes

3. Shoshone-Bannock Tribes

State Agencies

4. Wyoming Governor's Office
5. Wyoming Game and Fish Department
6. Wyoming Department of Agriculture
7. Idaho Fish and Game
8. Montana Department of Fish, Wildlife, and Parks

Local Agencies

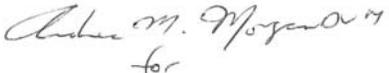
9. Teton County Commissioners
10. Fremont County Commissioners
11. Town of Jackson
12. Teton Conservation District
13. Jackson Hole Chamber of Commerce
14. Meeteetse Conservation District

Organizations

15. U.S. Animal Health Association
16. Animal Protection Institute
17. Animal Welfare Institute
18. Boone and Crockett Club
19. Foundation for North American Wild Sheep
20. Foundation for North American Wild Sheep, Utah Chapter
21. Greater Yellowstone Coalition
22. Jackson Hole Conservation Alliance
23. National Parks Conservation Association
24. National Wildlife Federation
25. National Wildlife Refuge Association
26. Science and Conservation Center
27. Sierra Club
28. Sportsmen for Fish and Wildlife, Bountiful, Utah
29. Sportsmen for Fish and Wildlife, Springville, Utah
30. Sportsmen for Fish and Wildlife of Wyoming
31. Sportsmen for Fish and Wildlife of Wyoming, Fremont County Chapter
32. Sportsmen for Fish and Wildlife of Wyoming, Sweetwater Chapter
33. Western Watersheds Project
34. Wyoming Farm Bureau Federation
35. Wyoming Livestock Board
36. Wyoming Outdoor Council
37. Wyoming Wildlife Federation

Comment No.	Letter 1	Response
<p>1-1</p>	<div style="text-align: right; margin-bottom: 10px;">  MAY 20 2005 nwrS </div> <p> <small>United States Department of Agriculture Marketing and Regulatory Programs Animal and Plant Health Inspection Service Washington, DC 20250</small> </p> <p> Ralph Morganweck Regional Director Mountain-Prairie Region Fish & Wildlife Service P. O. Box 25486 Denver Federal Center Denver, Colorado 80225 </p> <p>Dear Mr. Morganweck:</p> <p> This letter is in regards to the National Elk Refuge/Grand Teton National Park (NER/GTNP) Draft Bison and Elk Management Plan and Environmental Impact Statement (EIS). The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS) has reviewed the draft proposal and believes that Alternative 6 (environmentally preferred alternative) meets general disease management and elimination goals better than the other alternatives offered. Specifically, Alternative 6 provides more risk mitigation and management options which will lower the risk and major adverse impacts that brucellosis and non-endemic, infectious diseases will continue to cause for the elk, bison, and/or livestock populations. Moreover, the implementation of Alternative 6 would result in a lower prevalence of brucellosis in the long term as compared to the other alternatives presented. VS concurs with the designation of Alternative 6 as the preferred alternative. </p> <p> As pointed out in the EIS, brucellosis is a key issue in this bison and elk management planning process for the following reasons: (1) the Jackson elk and bison herds and other elk herds in western Wyoming are chronically infected with brucellosis, (2) the disease can be transmitted from elk and bison to cattle, and (3) brucellosis adversely impacts livestock production, wildlife management, and human health. </p> <p> APHIS' objective is to reduce and eliminate the potential for the transmission of brucellosis and other significant diseases of livestock and wildlife while providing for healthy bison and elk herds. This in turn protects the economic interest and viability of the livestock and wildlife interests of the States surrounding the NER/GTNP. During the scoping process, public interests generally agreed with this objective. </p> <p> APHIS/VS has other animal disease control and eradication programs that are of concern in the management of the NER/GTNP bison and elk herds. These diseases include tuberculosis, chronic wasting disease (CWD), and Johne's disease. Alternative 6 would be the superior management action alternative because it best addresses brucellosis in the elk and bison herds while also addressing the potential for other currently non-endemic diseases of concern in these herds. </p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div data-bbox="325 1282 703 1356">  <small>Safeguarding American Agriculture APHIS is an agency of USDA's Marketing and Regulatory Programs An Equal Opportunity Provider and Employer</small> </div> <div data-bbox="861 1307 1018 1356"> <small>Federal Relay Service (Voice/TTY/ASCI/ Spanish) 1-800-877-8339</small> </div> </div>	<p>1-1. Thank you for your comments.</p>

cc

Comment No.	Letter 1 (cont.)	Response
<p style="text-align: center;">4</p> <p>1-2</p>	<p>Ralph Morganweck 2</p> <p>Alternative 4 (proposed action) provides for continuation of feeding, although the number of animals being fed would be lower than the number currently being fed. However, this will still result in the unnatural concentration of animals and provide the potential for disease persistence and spread. It also allows for higher population levels. These higher levels combined with continued artificial feeding and increased elk concentration dramatically increases the potential for disease persistence in the elk and bison populations. Winter feeding of elk and bison is responsible for a high prevalence of brucellosis in elk and an elevated prevalence in bison. Winter feeding also increases the potential for spread of other diseases when they are introduced into these herds. This is a significant point in the analyses of all the alternatives in the EIS and is emphasized by the fact that winter feeding would be immediately stopped if CWD were found in the elk herd. Alternative 6 more sufficiently addresses and mitigates these issues.</p> <p>Under Alternative 6, potential disease transmission would be reduced by sustaining lower density elk numbers for the long term and increasing the distribution the elk population across a broader winter range. Since feeding would be phased out within five years, the dispersion of elk and bison would be a primary management action to reduce prevalence and transmission of brucellosis and reduce the potential for rapid spread of other diseases within these herds.</p>	<p>1-2. This comment reflects content in an interagency draft that preceded the Draft Plan/EIS released in July 2005. The U.S. Fish and Wildlife Service and the National Park Service will coordinate with the Wyoming Game and Fish Department and follow strategies to reduce CWD transmission risk and provide CWD surveillance. See page x in the "Summary" of the Draft Plan/EIS and page 38 in the full document. Hunter harvest surveillance will be expanded in northwestern Wyoming.</p>
<p>1-3</p>	<p>As vaccine use has been shown to reduce transmission of brucellosis, APHIS also recommends that in Alternative 6, brucellosis vaccination (Strain 19) of elk be continued and brucellosis vaccination (Strain RB 51) of bison be initiated using remote delivery systems, and that research continue in regards to vaccine use in wildlife. Current vaccines and delivery systems should be utilized as an adaptive management tool in the management plan. As research and science develop and refine more effective brucellosis vaccines or delivery systems, these vaccines and systems should then be considered for use.</p> <p>Again, APHIS encourages adoption of Alternative 6 (environmentally preferred alternative) as the proposed action alternative as Alternative 6 is the superlative alternative for meeting the disease management goals and objectives.</p> <p>Sincerely,</p>  <p>for John R. Clifford Deputy Administrator Veterinary Services</p>	<p>1-3. See response 1-2. Because these vaccines are safe for use in elk and bison, safe for nontarget species, and may reduce bruceollosis transmission to some degree, the Preferred Alternative could incorporate vaccination as long as it is logistically possible. Management would not be designed or changed specifically under the Preferred Alternative to facilitate vaccination.</p>

Comment No.	Letter 2	Response
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UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466

SEP 20 2005

Ref: 8EPR-N

Bison and Elk Management
Planning Office
National Elk Refuge
P.O. Box 510
675 E. Broadway
Jackson, WY 83001

Re: Bison/Elk Management Plan, Draft
Environmental Impact Statement,
CEQ# 20050297

Dear Sir/Ms.:

The U.S. Environmental Protection Agency, Region 8 (EPA) thanks the U.S. Fish and Wildlife Service (FWS) for the Draft Bison/Elk Management Plan (Plan), Draft Environmental Impact Statement (DEIS) and offers our comments to the DEIS pursuant to our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Our enclosed comments acknowledge the efforts and resources that the FWS committed to prepare the EIS. We thank you for clear and informative documentation of the proposed actions, and for your commitment to improve natural resources and wildlife habitats proposed in all action alternatives.

2-1

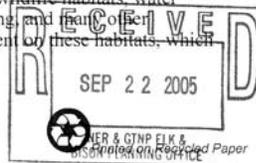
The EPA supports those actions which will improve water quality and other resources. Overall, the project will result in long-term benefits for water quality, water resources, reduced erosion and sediment loss potential, wildlife and habitat protections, and recreation visitors' experiences. While there are some differential effects on water quality in the National Elk Refuge and Grand Teton National Park, the Plan's Proposed Action and other alternatives will reduce potential soil erosion, sedimentation, fecal coliform bacteria, and nutrients in water sources on the Refuge. While it appears that the greatest improvements to water quality would come from implementing Alternatives 2, 3 and 6, compared to the Proposed Action (Alternative 4), the EPA recognizes both the improvements of all action alternatives and the important wildlife, recreation, local socioeconomic, and other tradeoffs that are involved.

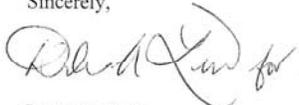
2-1. Thank you for your comment.

2-2

We want to take this opportunity to support and thank the FWS for protections of riparian areas that are part of the Proposed Action and other alternatives. The DEIS describes existing impacts to riparian areas and their resources. We recognize that undisturbed, functioning riparian areas are valuable ecological resources that provide fish and wildlife habitats, water quality protection and hydrologic functions, recreation, nutrient cycling, and heat/carbon benefits. Riparian-nesting birds and other wildlife are highly dependent on these habitats, which are among the most threatened natural systems in the western United States.

2-2. Thank you for your comment.



Comment No.	Letter 2 (cont.)	Response
2-3	<p>Based on the procedures EPA uses to evaluate the potential effects of proposed actions and the adequacy of the information in the DEIS, the Preferred Alternative will be listed in the <u>Federal Register</u> in the category 'LO' or 'lack of objections' (see enclosure for EPA ratings criteria and definitions). The rating means that EPA's review did not identify potential environmental impacts that require substantive changes to the proposal.</p> <p>Brad Crowder of my staff coordinated EPA's comments. He can be reached at the address above, by telephone at 303-312-6396, or by e-mail at crowder.brad@epa.gov.</p> <p>Sincerely,</p>  <p>Larry Svoboda Director, NEPA Program Office of Ecosystems Protection and Remediation</p>	2-3. Thank you for your comment.

Comment No.	Letter 2 (cont.)	Response
	<p style="text-align: center;">U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements</p> <p style="text-align: center;">Definitions and Follow-Up Action*</p> <p style="text-align: center;"><u>Environmental Impact of the Action</u></p> <p>LO - - Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.</p> <p>EC - - Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.</p> <p>EO - - Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.</p> <p>EU - - Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).</p> <p style="text-align: center;"><u>Adequacy of the Impact Statement</u></p> <p>Category 1 - - Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.</p> <p>Category 2 - - Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new, reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.</p> <p>Category 3 - - Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.</p> <p><small>* From EPA <u>Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment</u> Feb., 1987.</small></p>	

Comment No.	Letter 3	Response
	<div style="text-align: center;">  </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div data-bbox="241 378 514 438"> <p>FORT HALL INDIAN RESERVATION PHONE (208) 478-3700 FAX # (208) 237-0797</p> </div> <div data-bbox="588 300 777 479" style="text-align: center;">  </div> <div data-bbox="861 378 1123 438"> <p>FORT HALL BUSINESS COUNCIL P.O. BOX 306 FORT HALL, IDAHO 83203</p> </div> </div> <p data-bbox="325 495 472 516" style="margin-top: 20px;">November 1, 2005</p> <p data-bbox="325 565 672 678" style="margin-top: 20px;">Bison and Elk Management Planning Office National Elk Refuge PO Box 510 675 E. Broadway Jackson, WY 83001</p> <p data-bbox="325 703 924 755" style="margin-top: 20px;"><i>RE: Shoshone-Bannock Tribes Comments to the Elk and Bison DEIS/Management Plan</i></p> <p data-bbox="147 779 1060 852">3-1 The Shoshone-Bannock Tribes (Tribes) would like to thank the Planning Team comprised of the US Fish & Wildlife Service and the Grant Teton National Park for seeking Tribal input on this proposed Draft Environmental Impact Statement (DEIS) and Draft Management Plan.</p> <p data-bbox="147 868 1060 1036">3-2 The Planning Team from both the US Fish & Wildlife Service (FWS) and the Grand Teton National Park (GTNP) initially came to Fort Hall to meet with the Fort Hall Business Council, in a government-to-government meeting, as a part of the scoping process. That meeting may be considered as a part of the consultation process, as an informational meeting. More recently, in October of 2005, the Planning Team returned to Fort Hall, continuing the consultation process, seeking comments on the Draft EIS and the Draft Management Plan. The Tribes urge the agencies to continue that technical coordination throughout the Planning process.</p> <p data-bbox="147 1055 1060 1153">3-3 The Shoshone and Bannock peoples aboriginal lands were vast and far-ranging and encompassed what is now known as the states of Idaho, Oregon, Nevada, California, Utah, Wyoming and Montana. This includes the Greater Yellowstone region, which is within the planning area for this plan.</p> <p data-bbox="147 1177 1060 1291">3-4 Contrary to text in the DEIS, known historical references state that Shoshone and Bannock hunters used the region, and in fact, descendants of who is now known as the Shoshone-Bannock Tribes, including the bands known as the "Tukuduka" or Sheepeaters Shoshones, were permanent residents of the Yellowstone Plateau area. Other tribes were not permanent residents, and visited the area occasionally, for various reasons.</p> <p data-bbox="147 1315 1060 1372">3-5 Not only is this area known for hunting and gathering, but also numerous stories and legends revolve around the landscapes of this region. Tribal people value as sacred spiritual</p>	<p data-bbox="1144 779 1470 803">3-1. Thank you for your comments.</p> <p data-bbox="1144 901 1942 958">3-2. The agencies are committed to seeking coordination with the Shoshone-Bannock Tribes throughout this planning process and other such processes in the future.</p> <p data-bbox="1144 1039 1869 1096">3-3. The agencies greatly value the importance of tribal spiritual and cultural connections to this landscape.</p> <p data-bbox="1144 1112 1932 1315">3-4. The chapter in the Draft Plan/EIS on the Shoshone and Bannock peoples, although brief, does summarize the affected environment pertaining to the issues in this impact statement. The agencies acknowledge the ties of the Shoshone and Bannock Tribes and other American Indian tribes to the geographical area of the National Elk Refuge and Grand Teton National Park. The agencies have made considerable effort to consult with the tribes, especially the Shoshone of the Duck Valley, Fort Hall, and Wind River reservations, as well as the Shoshone-Bannock of Fort Hall.</p> <p data-bbox="1144 1347 1911 1404">3-5. See response 3-4. The Draft Plan/EIS does not detail every pre-historical or historical occurrence of tribes as that is not the primary purpose of the document.</p>

Comment No.	Letter 3 (cont.)	Response
	<p><i>Shoshone-Bannock Tribes Technical Comments to Elk & Bison DEIS/Management Plan</i> <i>November 2005</i></p> <hr/> <p>places, including the mountain peaks and high points and the FWS and GTNP would certainly have to manage to protect from any adverse impact on those values. This importance to the Tribes is reflected in the legends and oral traditions that continue to be handed down through tribal generations. The legend of the Coyote and the Basket, demonstrate the importance to the Tribes, as it explains how the features of the Snake River came about, all of which originated in the Yellowstone area. This also shows the extent of the aboriginal areas of the Shoshone and Bannock peoples, which includes the headwaters of the Snake River to the Columbia River.</p> <p>In 1867, an Executive Order established the Fort Hall Reservation and later the Shoshone and Bannock headmen signed the Fort Bridger Treaty of 1868. As a peace treaty, the 1868 Treaty states in Article 4 that the Tribes reserves the right to continue traditional and subsistence activities on all unoccupied lands of the United States. At that time, tribal people were encouraged to move to the Reservation, and give up their roaming ways, and to "reward" those who did move to the Reservation.</p> <p>The Yellowstone Plateau region has been area of conflict between Indians and non-Indians since the arrival of Euro Americans to the area. As Shoshone and Bannock bands throughout the different regions were displaced, they were sent to the Fort Hall Reservation, which only further increased the population and reduced food rations. Initially the people were allowed to leave the Reservation to hunt and gather on "unoccupied" government lands, via a "permit" system that was issued by Indian Agents, but white fears caused problems for Indians. On the Reservation, hunger became a serious problem for the Shoshone and Bannock people, and as government rations became meager, poverty and disease swept the reservation that eventually led to the Bannock War of 1878 and the Jackson Hole War of 1895.</p> <p>Conflicting uses between the Indians, settlers and tourists resulted in efforts to exclude Indians from the rich hunting areas of the Yellowstone and Jackson area, since the 1800s and continuing today, with the continued resistance of the Governor of Wyoming. A significant resources present in this region is obsidian, which is associated and reinforces the richness of the hunting industry by Indians. In the late 1800s, Indians returned to their aboriginal areas for food, but the white settlers and commercial hunting guides protested. Although this area provided a substantial portion of life giving food for Indians, efforts were made to exclude, bar and drive away all Indians from their traditional hunting grounds, by Indian Agents and territorial governments, by activities including posses, incarceration and murder.</p> <p>Today, descendents of the Lemhi, Boise Valley, Bruneau, Weiser and other bands of Shoshone and Bannock reside on the Fort Hall Reservation, in southeast Idaho.</p> <p>TRUST RESPONSIBILITY: Understanding that the FWS and GTNP are under a Multi-use Mandate, the Tribes remind and emphasize that the US FWS and the GTNP first has a federal trust responsibility to the Tribes to manage lands under their jurisdiction in a manner to preserve and protect those trust resources, on behalf of the Tribes. The Tribes request the FWS and GTNP include a statement acknowledging that federal trust responsibility to manage and protect Indian Trust Assets/Treaty Resources, and that the FWS and GTNP will</p> <hr/> <p style="text-align: center;">Page 2 of 9</p>	<p>3-6. Thank you for your comment.</p> <p>3-7. The Draft Plan/EIS (p. 166) acknowledges the extreme hardships subsequent to the treaties and later agreements that separated the tribes from their aboriginal territories.</p> <p>3-8. Thank you for your comment.</p> <p>3-9. Neither the U.S. Fish and Wildlife Service nor the National Park Service operates under a multi-use mandate, as stated in the comment. The National Wildlife Refuge System Administration Act of 1966, as amended in 1997, defines the mission for the system as wildlife conservation above all else. The mission of the National Park Service is defined in the NPS Organic Act of 1916, the General Authorities Act of 1970, and other statutes, including the National Parks Omnibus Management Act of 1998; in keeping with the agency's trust responsibilities, all park resources are to be preserved and protected, and no resources or values may be impaired.</p> <p>Although the U.S. Fish and Wildlife Service and the National Park Service recognize their general trust obligations to all recognized tribes, neither the National Elk Refuge nor Grand Teton National Park is managed for the specific benefit of any one tribe, and the agencies do not acknowledge that the two areas contain any tribal trust resources.</p>

Comment No.	Letter 3 (cont.)	Response
	<p style="text-align: center;"><i>Shoshone-Bannock Tribes Technical Comments to Elk & Bison DEIS/Management Plan</i> <i>November 2005</i></p> <hr/> <p>work to ensure all proposed projects will be developed and analyzed with this principal responsibility.</p> <p>The Shoshone-Bannock Tribes have a unique political relationship between the US Federal Governmental Agencies. As stated in the Tribal meeting on October 12, 2005, the treaties between the United States and the Tribes, as stated in the US Constitution, is the "supreme law of the land," and reaffirm the trust relationship between the United States and the Tribes. Please include in your list of required laws and statutes the federal agencies must follow, the 1868 Fort Bridger Treaty (15 Stat. 673), as well as the official government-to-government consultation requirements to the Shoshone-Bannock Tribes.</p> <p>3-10</p> <p>3-11 The DEIS contains statements that are inaccurate; please remove text that states off reservation treaty rights for hunting and fishing are not longer valid. The Shoshone-Bannock Tribes continue to actively subsistence hunt, fish and continue traditional practices off reservation.</p> <p>3-12 The document needs to state the difference between the treaty tribes versus the non-treaty tribes, which may reserve additional rights to the treaty tribes, such as the Shoshone-Bannock Tribes, who retains off reservation treaty rights. This would provide support to FWS and GTNP to include subsistence hunting in our aboriginal areas.</p> <p>3-13 INDIAN POLICIES: Include in the legal directives section the FWS American Indian Policies, and the National Park Services' Indian Policies, and how they will be included in management of the project areas.</p> <p>3-14 SOVEREIGNTY: The Shoshone-Bannock Tribes are not members of the general public; the Tribes are a sovereign nation, with its own governing system and cannot be equated with local states, municipalities or county governments. Do not include the Tribes as a general stakeholder.</p> <p>3-15 TRIBAL SNAKE RIVER POLICY: Shoshone-Bannock Tribal members continue to exercise their treaty rights off-Reservation by hunting, fishing and gathering and other traditional uses of the treaty resources. In accordance with the Shoshone-Bannock Tribes Natural River Policy, the Tribes would like to encourage the FWS and GTNP to conserve, protect and enhance natural and cultural resources. Attached is a copy of that Tribal policy.</p> <p>3-16 Please analyze the impacts that this proposed project would have upon the Tribes reserved treaty rights. Specific treaty resources include the following resources, cultural resources, wildlife, plants and vegetation, water resources and the traditional cultural activities.</p> <p>3-17 PLANNING GOALS: The Tribal staff requests that a specific goal/objective that the Planning Team needs to include would be to ensure that Tribal interests and rights are protected, enhanced and managed to the benefit of the Tribes while noting the public responsibility in a separate objective. Suggested text includes:</p> <p>Goal: Understand and Incorporate American Indian Rights and Interests by:</p> <ol style="list-style-type: none"> a. Identifying and protecting traditional cultural properties. 	<p>3-10. The determination of treaty and non-treaty rights is beyond the scope of this document.</p> <p>3-11. See response 3-9.</p> <p>3-12. See response 3-10.</p> <p>3-13. References to the agencies' policies were added to the "Legal Directives" section in Chapter 1 and included in the references.</p> <p>3-14. The agencies engaged in thorough government-to-government consultations with the tribes, including the Shoshone-Bannock, and these were separate discussions from those with the general public. The term "stakeholders" includes the participation by many public and tribal interests that are affected by the decisions made in this process, and the agencies are required to consider all perspectives on this planning process. In the Final Plan/EIS discussions of the tribes were separated, where practical, from those relating to the general public.</p> <p>3-15. The Tribal Snake River Policy was not attached to this comment letter. See response 3-10.</p> <p>3-16. See response 3-10. The agencies believe that the impacts of the alternatives on natural and cultural resources were adequately identified and analyzed in the Draft Plan/EIS.</p> <p>3-17. The agencies acknowledge that the protection of tribal heritage resources is an important component of this plan, but they believe that the stated goals and objectives in the <i>Bison and Elk Management Plan</i> — habitat conservation and sustainable populations, numbers of elk and bison, and disease management — address the natural and cultural values most important to the tribes. Language was added to the introduction section for "Management Goals" to emphasize the importance of supporting public, tribal, and other stakeholders' values.</p>
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<p>3-17 (cont.)</p>	<p><i>Shoshone-Bannock Tribes Technical Comments to Elk & Bison DEIS/Management Plan</i> <i>November 2005</i></p> <hr/> <ul style="list-style-type: none"> b. Recognizing and supporting treaty rights and tribal values when planning and implementing federal agency activities, within the project area. c. Memoranda-of-understanding would address the procedures and protocols to be followed with each particular tribe for assuring protection of traditional cultural properties and other sensitive sites. d. US Fish & Wildlife Service -Tribal memoranda-of-understanding would address issues of tribal member access to National Refuge lands for purposes of exercising treaty rights or practicing activities consistent with religious or other ceremonial activities. e. All line officers and other employees directly involved in National Park Service and US FWS management decisions, including seasonal employees, would understand American Indian rights and interests in our forest management decisions and implementation actions, and the importance of American Indian treaty rights and accompanying federal government trustee responsibilities. 	
<p>3-18</p>	<p>TRIBAL HISTORY: Please include a general history of the Tribal uses of this area. The location of the proposed project area is important to the Tribes, as it has important historical usage and continues to retain cultural values, as stories and legends, Tribal family histories, and other Tribal histories have included that area. The Tribes request that any adverse potential impacts that this project might have upon Tribal traditional values needs to be prevented.</p>	<p>3-18. See response 3-4. The Draft Plan/EIS, while not extensive, contains adequate information about past tribal history and uses to describe the affected environment and to assess the impacts of the proposed alternatives on cultural resources. The agencies understand the importance of the oral and written histories of the Shoshone-Bannock Tribes' uses of the area, but they do not believe that adding substantially more information would change the analysis of the actions related to bison and elk management that are evaluated in this impact statement.</p>
<p>3-19</p>	<p>CULTURAL VALUES OF AREA: The federal agencies may request specific site information to help identify constraints in specific locations of resources important to the Tribes, etc., however, it is the Tribes position that the <i>entire area</i> contains cultural significance to the Tribes. Site-specific recommendations are difficult to make without extensive visits to these areas by Tribal members and Tribal resource staff. If the FWS and the GTNP can offer financial assistance, via Assistance Agreements, to provide the funding to the Tribes, then more detailed participation can be possible from the Tribes side. The Tribes expect the agencies to manage to protect, and when possible enhance <i>all</i> of these resources.</p>	<p>3-19. The agencies acknowledge the tribes' interest in the cultural and resource values of the National Elk Refuge and Grand Teton National Park, and they have consulted with the tribes on the proposed management plan. Currently it is not anticipated that further archeological surveys are needed for the actions related to this planning process. In compliance with Section 106 of the National Historical Preservation Act of 1966, any further undertaking with a potential impact to cultural resources will be evaluated, and if appropriate, consultation will be initiated with the Wyoming historic preservation officer and the tribes.</p>
<p>3-20</p>	<p>ETHNOGRAPHIC STUDIES: The ethnographic studies needs to be completed prior to finalization of the Management Plan to identify direct, indirect and cumulative effects to the Tribes. This shall be done with appropriate government-to-government consultation with the Fort Hall Business Council, the governing body of the Shoshone-Bannock Tribes.</p>	<p>3-20. The agencies believe that the ethnographic resource information is complete with respect to the issues addressed in the Final Plan/EIS. The Final EIS does identify the direct and indirect effects of the alternatives on the tribes.</p>
<p>3-21</p>	<p>WILDLIFE CONCERNS: The FWS and GTNP needs to ensure that NO impacts or minimal impacts will be made to wildlife, including winter ranges. Habitats for birds or other species of special status needs to be protected from impacts from any future project that is proposed.</p> <p>Tribal resource staff has concerns about the migration routes of the elk, which moves back and forth from ranges in Idaho to Wyoming. Limiting the primary and secondary areas of analysis is incomplete and inadequate to fully analyze, as required in NEPA. The Tribes request to have the secondary area of analysis to be expanded into the State of Idaho. As a</p> <hr/> <p style="text-align: center;">Page 4 of 9</p>	<p>3-21. The Preferred Alternative identified in the Final Plan/EIS would enable the agencies to improve habitat and forage conditions and to provide for sustainable populations of elk, bison, and other wildlife. While minimal impacts cannot be guaranteed, a reduction in supplemental feeding (alfalfa pellets) over time would likely reduce the prevalence rates if non-endemic diseases like chronic wasting disease became established in the Jackson elk herd. The agencies do not expect major movements into Idaho from the Jackson elk herd under this alternative because of improved forage and reduced numbers of elk wintering on the refuge. Elk that did migrate from the refuge would likely be shortstopped at state-run feedgrounds.</p>

Comment No.	Letter 3 (cont.)	Response
	<p style="text-align: center;"><i>Shoshone-Bannock Tribes Technical Comments to EIS & Bison DEIS/Management Plan</i> <i>November 2005</i></p> <hr/> <p>co-manager of the fish and wildlife resources, the Shoshone-Bannock Tribes are seeking every opportunity to protect the resources.</p> <p>3-22 HUNTING: According to the Article 4 of the Fort Bridger Treaty, it states: "ARTICLE 4. The Indians herein named agree, when the agency-house and other buildings shall be constructed on their reservations named, they will make said reservations their permanent home, and they will make no permanent settlement elsewhere; but they shall have the right to hunt on the unoccupied land of the United States so long as game may be found thereon, and so long as peace subsists among the whites and Indians on the borders of the hunting districts."</p> <p>In accordance with Article 4, the Tribes have self-regulation and enforcement of all off reservation hunting and fishing, and enforced by our own Tribal Fish & Game Department for Tribal members, under a Tribal permit system for big game.</p> <p>3-23 The Tribes request to have tribal treaty hunts first, prior to any general public hunts, with a higher percentage of harvest to be allocated to treaty tribes who retain subsistence hunting rights, and then to other tribes. As discussed in the meeting of October 12, 2005, the Tribes do not agree with the number proposed for tribal allocation, nor how that number was calculated. This number must be based on yearly biological information and by management goals and objectives, and not on an arbitrary numbers set by political agendas, or influence. Annual meetings must be held between the tribes and US FWS to identify harvest numbers.</p> <p>3-24 GATHERING OF NATURAL RESOURCES: This includes access to gather of plant resources, paints, minerals, medicinal plants, as well as providing for camping.</p> <p>Shoshone and Bannock peoples have tribal names for these mountains and areas, and the Tribes encourage the FWS and GTNP to continue the ethnographic study, to help place these traditional names to the FWS and GTNP lands. This would help the FWS and GTNP better manage lands within their jurisdiction, to benefit the Tribes.</p> <p>3-25 The Tribes is concerned about the ethnographic study that is being conducted, and reemphasize that all approval and releases of traditional cultural information must be done with approval from the Fort Hall Business Council via official government to government consultation. This will ensure that all ethnographic information does not result in erroneous and misleading statements that may result in legal questions.</p> <p>3-26 CULTURAL RESOURCE ISSUES: For the future projects that the FWS and GTNP will be undertaking, please ensure that a stop work order is in place, if any cultural artifact is encountered or discovered, and that the appropriate Federal agency staff immediately notify the HeTO staff for the Shoshone-Bannock Tribes. Prior to any further work proceeding, clearance must be obtained from both the FWS and GTNP and the Tribes cultural resource staff.</p> <p>3-27 APPLICABLE ENVIRONMENTAL LAWS AND REGULATIONS: Please include the 1868 Fort Bridger Treaty and all applicable statues, laws, and executive orders the FWS and GTNP must abide by in regards to the Shoshone-Bannock Tribes.</p> <hr/> <p style="text-align: center;">Page 5 of 9</p>	<p>3-22. See responses 3-4, 3-10, 3-17, and 3-23.</p> <p>3-23. See response 3-17. The issue of subsistence hunting rights is outside the scope of the proposed plan. While the agencies are legally mandated to manage wildlife populations within their respective jurisdictions, the State of Wyoming also has responsibility for managing state wildlife populations, including determining population objectives and harvest levels, as well as managing hunter licensing. The agencies work cooperatively with the Wyoming Game and Fish Department to achieve mutual population objectives. The state is generally opposed to allowing the ceremonial taking of animals by tribes, believing that the tribes can compete with other hunters for a permit to hunt.</p> <p>3-24. Both agencies accommodate the gathering of natural resources under regulations for special use permits, which are separate from the issues addressed in this environmental impact statement. See responses 3-18, 3-19, and 3-20.</p> <p>3-25. Information from the ethnographic study was used to enhance the ethnographic information and analysis if applicable in the Final Plan/EIS. The tribes will have an opportunity to comment on the draft ethnographic report.</p> <p>3-26. See response 3-19 with respect to consultation on future undertakings.</p> <p>3-27. See response 3-10. A listing of applicable laws relating to the Final EIS can be found in Appendix A of the document</p>

Comment No.	Letter 3 (cont.)	Response
	<p><i>Shoshone-Bannock Tribes Technical Comments to Elk & Bison DEIS/Management Plan</i> <i>November 2005</i></p> <hr/>	
3-28	<p>SPECIFIC COMMENTS: Page 4, Background section, The Role of Elk. Please include an expanded discussion on the tribal history of the area, and uses of elk and bison.</p>	<p>3-28. The intent of this section is to discuss the history of elk in Jackson Hole. Pages 165 and 432 of the Draft Plan/EIS discuss tribal uses and impacts with respect to bison and elk.</p>
3-29	<p>Page 10, Decision to be Made and Criteria for Decision Making. Include in this section the requirements for government-to-government consultation between the US Fish & Wildlife Service and other federal agencies, and the Shoshone-Bannock Tribes.</p>	<p>3-29. See response 3-9. Language was added to include general trust responsibilities of the agencies as a factor to be considered.</p>
3-30	<p>Page 11, Factors to be Considered in Developing the Plan, Legal Directives. Include the statement acknowledging the Trust Responsibility to the Tribes, (see paragraph above). The Fort Bridger Treaty of 1868 also needs to be included in this section. A discussion on the Indian Policies that the federal agencies have in place needs to be included in this section.</p>	<p>3-30. See responses 3-9 and 3-29.</p>
3-31	<p>Page 17, Scoping Process, Stakeholder issues, general comment. It was difficult to discern where tribal comments were include in the alternatives. Please clarify how and where tribal comments were considered in the analysis.</p>	<p>3-31. The tribal comments received in the scoping process were discussed under cultural opportunities and “Areas of Potential Common Ground among the Public, Tribal, and Stakeholder Groups.” Although there is not an extensive discussion of any tribal or other stakeholder groups’ viewpoints, the list of seven significant issues captures the primary issues that were used in the development of the alternatives.</p>
3-32	<p>Page 19, 6. Cultural Opportunities and Western Traditions and Lifestyles. This section was confusing, it implied “western” as being Euro-western views; please revise.</p>	<p>3-32. “Western” was removed from this heading in the Final Plan/EIS.</p>
3-33	<p>Page 39, Elements Common to All Alternatives. Tribal hunting as a means to reduce elk and bison needs to be included in this section, rather in contained within Alternatives; this ensures that selection of an alternative does not exclude trust responsibilities to the Tribes.</p>	<p>3-33. See response 3-9 with regard to trust responsibilities. The agencies respectfully disagree that hunting should be common to all alternatives. The agencies feel it is necessary to evaluate a range of alternatives, including a no-action alternative. Not all stakeholders support hunting or a tribal hunt.</p>
3-34	<p>Page 92, Environmental Justice. This section needs to be reviewed and revised to include the Tribes subsistence hunting and fishing, which would be impacted from the continued lack of tribal hunts in the region.</p>	<p>3-34. There is nothing in the legislation for either the National Elk Refuge or Grand Teton National Park that would make an allowance for subsistence hunting and fishing, and impacts based on environmental justice principles would not apply.</p>
3-35	<p>Page 122, Distribution and Movements. Additional analysis needs is necessary on the expanded area, including the movements south and west into Idaho for elk migration routes.</p>	<p>3-35. See response 3-21. Major movements into Idaho would not be likely under any alternative, and very little movement would be expected under the Preferred Alternative identified in the Final Plan/EIS.</p>
3-36	<p>Page 144, History of Bison in Jackson Area, Background section, The Role of Bison. Please include an expanded discussion on the tribal history of the area, and uses of elk and bison.</p>	<p>3-36. The intent of this section is to discuss the history of bison in Jackson Hole. Pages 165 and 432 in the Draft Plan/EIS discuss the tribal uses of bison and elk.</p>
3-37	<p>Page 165, Indigenous People of Western Wyoming, 1st paragraph. The first sentence is inaccurate, please revise to reflect that communal view of native peoples, vs the boundary driven European view of land ownership. Delete “severe winters prevented habitation; change to “severe winters were harsh, but did not prevent habitation.”</p>	<p>3-37. “Claimed ownership” was changed to “occupied.” The sentence about severe winters was changed.</p>
3-38	<p>Paragraph 3. replace paragraph with “The Shoshone and Bannock people originally inhabited areas in the northwest, extending into what are now Canada and Mexico. The Northern Shoshone included bands from the Lemhi Mountain Range west into Oregon. Others lived in the southern corner of Idaho and the present site of Fort Hall. The Bannock’s, culturally similar to the Shoshone but linguistically different, speak a separate language.</p>	<p>3-38. The language was replaced in the Final Plan/EIS.</p>
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Comment No.	Letter 3 (cont.)	Response
	<p style="text-align: center;"><i>Shoshone-Bannock Tribes Technical Comments to Elk & Bison DEIS/Management Plan</i> <i>November 2005</i></p> <hr/>	
3-38 (cont.)	<p>Before the appearance of the horse, these peoples moved in extended family groups throughout the region. They fished for salmon in the rivers, hunted deer, elk, antelope and mountain sheep. Some plant resources the tribes gathered included camas, bitterroot and biscuitroot bulbs, along with berries and seeds."</p>	
3-39	<p>Paragraph 4: Revise the paragraph as follows: delete and replace the 1st sentence, to read as follows: "the Bannock and Shoshone occupied areas that include eastern Idaho and western Wyoming. This area, the Upper Snake River plains received higher rainfall, providing adequate grasses and forage for bison to exist..."</p>	3-39. The language was changed in the Final Plan/EIS.
3-40	<p>Page 165, last paragraph. Revise paragraph to read as follows: "Because of Indian-white tensions, the Fort Hall Reservation was created by Executive Order in 1867, thus clearing the way for European-American settlements, such as ranchers and miners who desired rich resources present in aboriginal lands. A year later, the Fort Bridger Treaty was signed by the Shoshone and Bannock headmen, relinquishing any further claims to lands and title, but reserving the rights to hunt, fish and gather on unoccupied lands in the United States. Article IV states: (insert Article 4 text, see above).</p>	3-40. This language in the Draft Plan/EIS is neutral and was not changed in the Final Plan/EIS.
3-41	<p>Page 166, 2nd paragraph. Revise and replace the entire paragraph to read as follows: "The Fort Bridger Treaty stipulated that there would be a separate reservation for the Bannocks, but in the end, they remained on the Fort Hall Reservation."</p>	3-41. The second paragraph was changed to state, "the Bannocks chose to stay on the Fort Hall Reservation."
3-42	<p>Page 166, 4th paragraph. Delete entire paragraph regarding sale of half million acres.</p>	3-42. The fourth paragraph was deleted in the Final Plan/EIS.
3-43	<p>Page 166, 5th paragraph. Delete entire paragraph regarding off reservation rights; its is inaccurate.</p>	3-43. The last sentence of the fifth paragraph was deleted in the Final Plan/EIS.
3-44	<p>Page 166, 6th paragraph. Delete and replace with the following: "Initially the Shoshone and Bannocks were allowed to leave the reservation to hunt and gather camas off reservation in traditional aboriginal areas, but white fears created problems. Both the Bannock War of 1878 and the Jackson Hole War of 1895 were the attempts of tribal hunters to fight for their subsistence and traditional existence. When they were finally rounded up the US military, they were sent to Fort Hall.</p>	3-44. The sixth paragraph was left unchanged.
3-45	<p>Today, the Bannock and Shoshone people occupy the Fort Hall Reservation in southeastern Idaho, as well as the Duck Valley Reservation in southwestern Idaho. The Eastern Shoshone currently reside on the Wind River Reservation in west-central Wyoming."</p>	3-45. Thank you for your comment.
3-46	<p>Page 167, Cultural Resources. 1st paragraph. This section need to clarify that this is only based on the <i>known, documented</i> archeological information, and therefore can not be considered complete. The discussion regarding the environmental changes and the human use of the area is only based on limited archeological information. This does not consider native perspectives nor is it based on any ethnographic information; do not make this conclusion, without clarifying. Delete the last sentence "...but there is no evidence that Native Americans ever permanently resided in Jackson Hole."</p>	3-46. The first paragraph was changed to "Limited but documented archeological evidence indicates that Native Americans . . ." The last sentence was changed to read, "evidence of permanent settlements has not been found in Jackson Hole."
3-47	<p>Page 168, Archeological Sites on the National Elk Refuge and the Grand Teton National Park. Its interesting to note the tremendous difference between the numbers of archeological sites surveyed and documented; NER has 10 sites and the GTNP has 400. This leads to</p>	3-47. See response 3-19. There could be more sites on the National Elk Refuge, but new undertakings with potential impacts to cultural resources are not anticipated at this time based on the actions identified in the Final Plan/EIS.

Comment No.	Letter 3 (cont.)	Response
	<p style="text-align: right;"><i>Shoshone-Bannock Tribes Technical Comments to Elk & Bison DEIS/Management Plan</i></p> <p style="text-align: right;"><i>November 2005</i></p> <hr/> <p>3-47 (cont.) questions regarding the NER's ability to ensure no impacts to unrevealed, undocumented archeological sites. The Tribes need absolute reassurance that more information will be gathered to protect those unrevealed sites.</p> <p>3-48 Page 430, Impacts to Cultural Resources. The analysis did not consider any other view, other than an archeological viewpoint, thus missing the entire perspective that would be offered after the ethnographic studies would be completed. The native viewpoint of the cultural landscape is missed entirely.</p> <p>3-49 Page 430, Impacts to Cultural Resources, Methodology for Analyzing Impacts. Since no previous surveys have been completed in areas of high use, and it is likely that these high use areas may have unrevealed subsurface sites within these areas, the Tribes request to have at least minimal surveys conducted. If there are sites present, appropriate protection measures must be implemented. The site types that have been documented within the NER, as stated in the Affected Environment section, indicate the potential that sites may be present. Using the principle of conservation, the NER and the NPS must make every effort to protect and preserve these un-renewable archeological resources.</p> <p>3-50 Page 430, Ethnographic Resources. The analysis of the ethnographic information that is being developed should not be limited to only bison and elk; but needs to include the general history of the area and the tribal values and rights within the Yellowstone Region.</p> <p>3-51 As defined on page 430, cultural resources include historical structures, cultural landscapes, archeological sites, and ethnographic information. The analysis that was used in the DEIS is incomplete, as it appeared to only have archeological analysis and conclusions, which is incomplete. Conclusions for all alternatives need to be redone, upon completion of ethnographic information.</p> <p>3-52 Page 432, Cumulative Effects. This conclusion also needs to be reevaluated, upon completion of ethnographic studies.</p> <p>3-53 Page 432, Impacts on Ethnographic Resources, Impact Analysis. Management decisions by Yellowstone National Park, Grand Teton National Park and the National Elk Refuge will be determined by the information in the Ethnographic Report and the resultant analysis in the DEIS, and Management Plan.</p> <p>3-54 Page 432, Impact Analysis, 2nd paragraph. Remove any sentence that imply tribes may have used the lands within the GTNP, the NER and the YNP; it has been definitely and numerously, established that tribes resided and utilized these areas. Tribal hunts should not be specific to any one or even a combination of Alternatives; it should be included in the Elements common to all Alternatives section. The discussion regarding the consultation requirement needs to also include the Indian Policies of the US FWS and the NPS, and how they will be implemented within the GTNP, the NER and the NYP.</p> <p>3-55 To provide reassurance to the Tribes that the Planning Team has taken into consideration Tribal comments, the Tribes request to have a written response from the US FWS and the GTNP Planning Team staff, to our comments. The Tribes need to be involved to review and ensure that the NEPA document adequately addresses the Tribal comments.</p> <hr/> <p style="text-align: center;">Page 8 of 9</p>	<p>3-48. Cultural landscapes were added to the types of ethnographic resources in the first paragraph (Draft Plan/EIS, p. 430). None of the alternatives would change the cultural landscape that has been in existence on the National Elk Refuge since the late 1800s.</p> <p>3-49. See responses 3-19 and 3-46.</p> <p>3-50. See responses 3-9 and 3-20 on ethnographic resources in the Final Plan/EIS.</p> <p>3-51. A conclusion section was added for ethnographic resources.</p> <p>3-52. Based on the known and reasonably foreseeable activities that could result in cumulative impacts (Draft Plan/EIS, pp. 23–30), additional cumulative impacts are not expected to occur.</p> <p>3-53. For the actions presented in this environmental impact statement, the regional directors of the U.S. Fish and Wildlife Service and the National Park Service will make the final decision about which ethnographic resources and impacts are part of the decision-making process.</p> <p>3-54. The language was clarified in the second paragraph of the Draft Plan/EIS (p. 432). Also see responses 3-13, 3-27, 3-33, and 3-55.</p> <p>3-55. Written responses to all the comments received on the Draft Plan/EIS are published as part of the Final Plan/EIS, and a copy will be provided to all tribes. The Final EIS constitutes the agencies' written responses to all the comments received on the Draft Plan/EIS. It should be noted that when the planning process began, the tribes defined how they wanted to participate (cooperating agency versus occasional consultation).</p>

Comment No.

Letter 3 (cont.)

Response



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Mountain-Prairie Region

IN REPLY REFER TO:

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OCT 26 2005

Mr. Blaine J. Edmo
Tribal Chairman, Shoshone-Bannock Tribes
P.O. Box 306
Pima Drive
Ft. Hall, Idaho 83203

Dear Mr. Edmo:

On behalf of the representatives from the U.S. Fish and Wildlife Service and the National Park Service, we would like to express our appreciation for having had the opportunity to brief the Shoshone-Bannock Tribal Business Council on issues related to the Draft Bison and Elk Management Plan and Environmental Impact Statement.

We are enclosing a copy of the summary notes that were discussed with the council and staff at the meeting. If you have any questions regarding the accuracy of these summary notes, please contact Laurie Shannon, Planning Team Leader, so we can correct or clarify any information contained in the notes. We encourage you to send us any other written comments the Shoshone-Bannock Tribes have on the document, by the close of the comment period on November 7, 2005. If we do not receive additional comments, we will consider the verbal comments given at the October 12, 2005, meeting as your official comments on the draft plan. We will respond to all the comments we receive on the draft plan in the Final Bison and Elk Management Plan and Environmental Impact Statement, which is anticipated to be finalized in 2006. If the tribal council has any questions about the planning process or the summary notes, please contact Laurie Shannon directly at 303-236-4317.

Sincerely,

for Richard A. Coleman, Ph. D.
Assistant Regional Director
National Wildlife Refuge System

Enclosure

3-57

3-57. This a summary of the verbal comments recorded during a consultation with the Shoshone-Bannock Tribes on October 12, 2005. Most of the comments are addressed in the letter received from the Shoshone-Bannock Tribes dated November 1, 2005. Other comments received during the consultation meeting but not addressed in the written comments are addressed below.

Comment No.	Letter 3 (cont.)	Response
	<p style="text-align: center;">Consultation with the Shoshone-Bannock Tribes Business Council Meeting Fort Hall, Idaho 10:00 am -12:00 pm October 12, 2005</p> <p>Objective: Consult with and solicit comments from the Shoshone-Bannock Business Council on significant issues in the draft Bison and Elk Management Plan and Environmental Impact Statement</p> <p>Attendees: Barry Reiswig (USFWS), Jim Bellamy (NPS), Sue Consolo-Murphy (NPS), Laurie Shannon (USFWS), Carol Cunningham (NPS), Joanna Behrens (NPS), Blaine Edmo (Chairman), Aldene Peve, (Tribal Secretary), Wesley Edmo (Tribal Treasurer), Glen Fisher (Sgt. At Arms), LeeJuan Tyler (Council Member), Marlene Skunkcap (Council Member), Yvette Tuell (SBT Environmental Program), Chad Colter (SBT Wildlife Biologist), Dan Christopherson (SBT Wildlife Biologist), Leander Watson (SBT Big Game Biologist), Claude M. Broncho (SBT Fish and Wildlife Policy Representative), Brandelle Whitworth (Tribal Attorney)</p> <p>After a few introductory remarks by Blaine Edmo, Barry Reiswig, Jim Bellamy, and Laurie Shannon, Carol Cunningham delivered a Powerpoint presentation that gave an overview of the planning process and described the 6 alternatives contained in the Bison and Elk Management Plan/EIS. During the course of this presentation attendees asked questions and expressed comments which are summarized below.</p> <p>History of Jackson Hole Tribal representatives were very dissatisfied with the description of the history of Native Americans in Jackson Hole as contained in the document. Council members said that although many tribes may claim to have used this area prior to Euro-American settlement, the Shoshone and Bannock tribes can document their extensive use of Jackson Hole and that their people were in this valley longer than any other tribe. Other tribes came from other areas and spent very little time hunting and gathering in Jackson Hole. The Shoshone-Bannock tribes were the primary users, continue to use this area, and continue to assert tribal rights in Jackson Hole. They believe that they should not be lumped together with other tribes. Tribal representatives would like to see a more extensive and specific history of the Shoshone-Bannocks. In addition to the inadequate history of the Shoshone-Bannock tribes, the Plan/EIS contained many factual errors and omissions regarding that history.</p>	
3-58		<p>3-58. See responses 3-4, 3-5, 3-14, 3-18, and 3-59. The agencies appreciate the Shoshone-Bannock Tribes identifying factual errors in the Draft Plan/EIS and have corrected errors in the Final Plan/EIS where applicable.</p>
3-59	<p>Sue Consolo-Murphy discussed an ethnographic study that is being conducted by a contractor, Deward Walker. When this study is complete it will be incorporated into the Plan/EIS and may correct some of these errors. Some tribes were consulted on whom to award this contract to and she believed that Deward Walker had been approved by these tribes. Council members did not believe that they were one of the tribes consulted and they strongly objected to the choice of Deward Walker. Chairman Edmo stated that Walker is not well regarded by the Shoshone-Bannocks and may even be considered a</p>	<p>3-59. Once completed, the draft ethnographic study will be released to the tribes for review and comment. The agencies appreciate the Shoshone-Bannock Tribes' input on tribal history referred to in the Draft Plan/EIS. The agencies sincerely attempted to obtain tribal input prior to the selection of a contractor for the ethnographic study.</p>

Comment No.	Letter 3 (cont.)	Response
3-60	<p>traitor due to his testifying against tribal interests. In matters of tribal history, agencies should come directly to the tribes for information.</p> <p>The document states that some alternatives could result in negligible adverse impacts to archeological and ethnographic resources. Brandelle Whitworth stated that the agencies could not make a determination of degree of impacts on these resources due to the limited archeological and ethnographic information that is contained in the Plan/EIS and that these analysis should be completed with tribal input and cooperation.</p> <p>Jim Bellamy emphasized that the agencies welcomed feedback from the tribes so that errors in the EIS/Plan could be corrected, the presence of the Shoshone-Bannock tribes in Jackson Hole could be properly documented, and the level of impact on cultural resources could be determined.</p>	3-60. See response 3-19.
3-61	<p>Executive Summary</p> <p>The executive summary document does not specifically mention the Shoshone-Bannocks and contains very little information regarding Native Americans. Council members were concerned about this omission. Although agency representatives thought that having details of Native American history in the 600-page draft EIS document would address some of the council's concerns, council members felt that both documents should contain detailed and accurate information about tribal history and use of Jackson Hole. They feel this is important because they believe the Bush administration is trying to write them out of the history books and thereby deny their claims to tribal rights in many areas. These documents are legal documents that will be archived and may be used in the future to document Native American use of certain areas. Council members fear that if the executive summary does not reference their use of Jackson Hole, someone in the future may deny that they have rights to this area because they're not even mentioned in that document. It is important to the Shoshone-Bannock tribes that all historical and legal documents accurately record their history.</p>	3-61. See response 3-4. The executive summary document was modified to include additional information about the tribal involvement in the process.
3-62	<p>Federal Government Responsibilities to the Tribes</p> <p>Council members stated that the Shoshone-Bannock tribes are not stakeholders as written in the Plan/EIS. Congressionally ratified treaties with the federal government set the tribes apart from stakeholders. The federal government has a special relationship with the Shoshone-Bannocks and has special responsibilities to the tribes. The federal government must consult with the tribes on a government-to-government basis. The Plan/EIS should recognize these trust responsibilities and discuss various treaties that establish the tribe's rights and the government's responsibilities, especially the Fort Bridger Treaty of 1868.</p>	3-62. See responses 3-4 and 3-14.
3-63	<p>Bison Hunting</p> <p>Tribal members questioned the number of bison that would be allocated to the tribes. Since there are 15 tribes identified in the Plan/EIS, 5 bison per year would be inadequate to meet the cultural and spiritual needs of the tribes. Barry Reiswig explained the history of the planning process regarding allocation of bison to Native Americans. The 1996 Bison Plan gave one third of the harvested bison to the tribes and called for the tribes to determine how they were distributed. During this planning process, the Wyoming Game</p>	3-63. See response 3-23.

Comment No.	Letter 3 (cont.)	Response
3-63 (cont.)	and Fish Department (WGFD) initially opposed allocating any bison to the tribes but Governor Freudenthal agreed to a compromise of 5 bison. The State of Wyoming does not recognize any Native Americans' claim to tribal rights in Wyoming. The court case of Ward vs. Racehorse was cited as evidence that the Shoshone-Bannock do have tribal rights in Wyoming, but the State of Wyoming cites that same case as evidence that they do not. The tribes may need to resolve the issue through litigation.	
3-64	The agencies stated that the tribes are free to apply for bison tags in the general public hunt. Tribal members inquired about the fees associated with the general public hunt. A Wyoming resident must pay \$200 and out of state residents must pay \$1000. The Shoshone-Bannock objected to the fact that the agencies only address recreational hunting in the Plan/EIS and say nothing about subsistence hunting.	3-64. See response 3-34.
3-65	Several of the Powerpoint slides mentioned bison hunting for the general public and limited tribal reduction of bison. Tribal members objected to the use of the word "limited" feeling that it implied that the general public hunt would not be limited. The agencies agreed to delete that word.	3-65. Thank you for your comment.
3-66	Elk Issues The Shoshone-Bannock tribes assert tribal rights with regard to elk hunting as well as bison hunting in Jackson Hole.	3-66. See responses 3-9, 3-10, and 3-23.
3-67	Chairman Edmo disagreed with the history of elk hunting and Euro-American settlers as written in the Plan/EIS. He stated that this was the Hollywood version of history and that early settlers of Jackson Hole were often rustlers and criminals.	3-67. Thank you for your comment. The intent of the description in the Draft Plan/EIS (pp. 166-67) was to detail the events that led to the loss of winter range and the establishment of the National Elk Refuge.
3-68	Tribal members questioned the Jackson elk herd boundary as defined in the Plan/EIS. In the past, local hunters on Fort Hall Reservation have taken elk that were marked with tags from Jackson Hole. Tribal members stated that Idaho should be included in the analysis area.	3-68. See responses 3-21 and 3-35.
3-69	Tribal members questioned the effect of wolves on the elk herd. Joanna Behrens stated that according to WGFD, the wolves have not had a significant effect on the Jackson elk herd. Tribal members thought that in a few years, the wolves would drive the elk out of Jackson Hole. Sue Consolo-Murphy stated that wolves, of course, do eat elk and have killed one bison.	3-69. Any new information about the effect of wolves on the Jackson elk herd has been incorporated into the Final Plan/EIS.
3-70	Other Issues Tribal members were interested in employment opportunities and contracting opportunities with the park and refuge. Jim Bellamy and Barry Reiswig explained the process involved in gaining employment and contracts with the federal government. Jim Bellamy agreed to send them more information regarding these issues.	3-70. Thank you for your comment.
3-71	Council members were interested in obtaining bison skulls from the park or the refuge. Grand Teton National Park leaves skulls in the environment to be recycled by natural	3-71. See response 3-24.

Comment No.	Letter 3 (cont.)	Response
3-71 (cont.)	<p>processes. The National Elk Refuge does collect bison skulls and the tribes could write a letter formally requesting skulls.</p> <p>Tribal members stated that they should have access to all federal lands and that they should not have to pay fees for any reason. Jim Bellamy stated that Grand Teton National Park does not charge entrance fees to registered tribal members. Interest in free sleigh rides was also expressed. Barry Reiswig stated that a free ride could be arranged. The sleigh rides, however, are run by a private contractor who could not afford to give unlimited sleigh rides to all tribal members.</p> <p>Council members stated that one way to deal with excess elk and bison would be to transport them to reservations that have herds or want to start herds. The agencies explained that because both elk and bison herds have high rates of brucellosis, animals can not be transported elsewhere unless they test negative for brucellosis and are held in a quarantine facility for a long period of time. This would be an expensive endeavor.</p>	
3-72	<p>Summary of Shoshone-Bannocks Requests Regarding Plan/EIS Record Shoshone-Bannock history, culture, treaties and federal government trust responsibilities in a detailed and accurate fashion in all Plan/ EIS documents.</p>	3-72. See responses 3-4, 3-5, 3-9, and 3-10. Additional information was added to the Final Plan/EIS with regard to agency trust responsibilities and treaties.
3-73	Identify and ensure that tribal treaty rights are recognized and upheld. "Alternatives Common to All" section of the Plan/EIS should cover tribal issues. Explain that ignoring treaty rights is a violation of law. Treaty rights with regard to hunting should be stated clearly. Refute the State of Wyoming's claim that the Shoshone-Bannock tribes have no treaty rights in Jackson Hole.	3-73. See responses 3-9, 3-10, and 3-33.
3-74	Send a letter to the tribes explaining where in the EIS/Plan their comments from previous meetings have been incorporated. Council members feel that the agencies ignored their previous comments.	3-74. See response 3-55.
3-75	Have goals and objectives specific to the tribes and government-to-government consultation with the tribes.	3-75. See response 3-17.
3-76	Expand the cumulative effects analysis area to include Idaho.	3-76. See responses 3-21 and 3-52.
3-77	Use tribal input and cooperation when writing the history of the tribes and when determining the impacts on archeological and ethnographic resources.	3-77. See responses 3-4, 3-19, and 3-20.
3-78	<p>Conclusion The council does support Alternative 4 but have additional suggestions to incorporate into a final alternative. They will send a letter to the agencies with additional comments.</p>	3-78. Thank you for your comments.

Comment No.	Letter 4	Response
	 <p>DAVE FREUDENTHAL GOVERNOR</p> <p>THE STATE OF WYOMING</p> <p>STATE CAPITOL CHEYENNE, WY 82002</p> <p>Office of the Governor</p> <p>November 7, 2005</p> <p>Jackson Bison and Elk Management Planning Office Attention: Laurie Shannon P O Box 510 Jackson, WY 83001</p> <p>Re: Draft Bison and Elk Management Plan and Environmental Impact Statement (dEIS).</p> <p>Dear Ms. Shannon:</p> <p>Thank you for the opportunity to provide comment on the above-referenced dEIS. Present and future management of the bison and elk herds on the National Elk Refuge and in Grand Teton National Park is of particular importance to the State of Wyoming as it pertains to agriculture, hunting, recreation, natural resources and our way of life generally. Given the sometimes conflicting nature of these considerations, our ability to have an effective voice in this process is even more critical.</p> <p>You will be receiving comments on the dEIS from the Wyoming Game and Fish Department (Game and Fish) and the Wyoming Department of Agriculture. While I generally agree with and defer to the expertise and opinion of these agencies, I offer the following comments to be considered in conjunction with theirs.</p> <p>I concur with the Game and Fish Department's emphasis on its statutorily mandated management authority over all wildlife in Wyoming. Wyo. Stat. § 23-1-103. The state of Wyoming will not cede wildlife management authority in the National Elk Refuge, Grand Teton National Park nor the John D. Rockefeller Jr. Memorial Parkway. As such, I recommend that the respective authority of Game and Fish and the National Park Service be more appropriately characterized and clearly defined earlier in the document.</p> <p>I similarly concur with Game and Fish's assessment of the various alternatives as they pertain to feed grounds. I am well aware of, and have concerns about, the issues surrounding feed grounds in this state. Disease and habitat concerns most certainly need to be addressed. I am not convinced, however, that a phase-out or elimination of feed grounds, as proposed in the preferred alternative, is the most effective solution. Having toured these areas, and in speaking with the agriculture producers and wildlife managers</p> <p>TTY: 777-7860 PHONE: (307) 777-7434 FAX: (307) 632-3909</p>	
4-1		4-1. Thank you for your comments.
4-2		4-2. The U.S. Fish and Wildlife Service and the National Park Service met with the Wyoming Game and Fish Department and agreed upon appropriate language for the Final Plan/EIS to clarify jurisdiction.
4-3		4-3. Alternative 4 in the Draft Plan/EIS did not state that supplemental feeding would be eliminated. In the Final Plan/EIS Alternative 4 (the Preferred Alternative) has been modified to include a greater emphasis on adaptive management. It does not specify the number of years that feeding would take place nor that it would be eliminated, but it focuses on achieving the desired conditions for sustaining bison and elk populations over time. Working in close cooperation with the Wyoming Game and Fish Department, the U.S. Fish and Wildlife Service would decrease the need for supplemental feeding on the refuge based on existing conditions, trends, new research findings, and other changing circumstances.

Comment No.	Letter 4 (cont.)	Response
	<p>Jackson Bison and Elk Management Planning Office November 7, 2005 Page 2</p> <p>directly involved with the management issues of these herds, it is evident to me that the preferred alternative does not give wildlife managers the control or flexibility needed in order to achieve the herd size and seroprevalence objectives outlined in the dEIS.</p> <p>An issue of great importance to both Game and Fish and the Department of Agriculture is the effect dispersal of elk and bison from feed grounds will have on other wildlife populations, domestic herds and residential areas. Displaced wintering elk will undoubtedly compete with big horn sheep, moose and livestock for winter forage. I agree that the preferred alternative does not adequately address the potentially dire consequences of such competition.</p> <p>Additionally, preferred alternative 4 lacks language specifically addressing the hunting opportunities and access Game and Fish feels is imperative to achieving the expressed population objectives of the plan. If such language was to be added to the final EIS, and the respective jurisdiction of the managers was to be appropriately outlined up front, I could support Alternative 4. Until these amendments are made, I will withhold such support.</p> <p>Thank you again for allowing the State of Wyoming to provide comments on the dEIS. My staff and I, along with our state agencies, stand ready to work with the EIS team as it moves towards the Final EIS.</p> <p>Best regards,  Dave Freudenthal Governor</p> <p>BLB:pjb</p> <div data-bbox="856 1274 1102 1437" style="text-align: center;">  </div>	<p>4-4. The Draft Plan/EIS analyzed the effects of elk and bison dispersal from feed-grounds on other wildlife populations, domestic herds, and residential areas, and the agencies acknowledged the importance of these effects. The Preferred Alternative in the Final Plan/EIS, which is a modification of Alternative 4 in the Draft Plan/EIS, emphasizes adaptive management and the need for flexibility to better prevent conflicts and cope with effects as they begin to occur.</p> <p>Under the Preferred Alternative in the Final EIS a dynamic framework for decreasing the need for supplemental feed on the refuge would be developed and implemented in close cooperation with the Wyoming Game and Fish Department. Elk would continue to forage on refuge winter range and cultivated areas, where improved techniques would provide better quality forage than current cultivation provides. As acknowledged in the Draft Plan/EIS, there would be a likelihood of increased competition in some areas during some years, but it is difficult to predict the extent of impacts for several reasons. First, only some of the elk that have wintered on the refuge would disperse, and this number cannot be predicted. Second, ungulates often differ in their habitat choices and may remain separate by choice in wintering areas. In addition, deer, moose, and bighorn sheep populations in this area have been declining for unknown reasons, while feedgrounds have restricted winter distribution in most of the Jackson elk herd. More research is needed to determine the causes of these population declines. In the long term the monitoring of refuge vegetation and the elk and bison populations would provide data to examine further reductions in refuge elk numbers and refuge supplemental feeding.</p> <p>The agencies would work with the Wyoming Game and Fish Department and land-owners, including the local livestock community, to coordinate actions to prevent conflicts and to defray costs of managing potential conflicts.</p> <p>4-5. The agencies have met with the Wyoming Game and Fish Department to discuss the department's comments on hunting opportunity and access in Grand Teton National Park and jurisdiction clarification. Specific points about access in the park have been discussed in the responses to the WGF'D comment letter (see response 5-9).</p> <p>4-6. Thank you for your comments.</p>

Comment No.	Letter 5	Response
	<div style="text-align: center;">  <p>October 10, 2005</p>  <p>WER 10079 US Fish and Wildlife Service Bison and Elk Management Plan Draft Environmental Impact Statement</p> <p>Jackson Bison and Elk Management Planning Office Box 510 Jackson, WY 83001 ATTN: Laurie Shannon</p> <p>Dear Ms. Shannon:</p> <p>5-1 The Wyoming Game and Fish Commission (WGFC) and Department (WGFD) continue to have serious concerns regarding the proposed action and the other alternatives in this document. We cannot support the proposed action because of the EIS's emphasis on eliminating feeding, emphasis on natural regulation of elk and bison populations in Grand Teton National Park (GTNP) instead of hunter harvest, and the inclusion of the John D. Rockefeller Jr. Memorial Parkway (Parkway) in the Decision Area. The WGFD can only support Alternative 5, because the elk and bison population and supplemental feeding objectives for this alternative are the most reasonable given the management emphasis detailed in the EIS. Although the WGFD can support the elk and bison population and supplemental feeding objectives in Alternative 5 there are other aspects of Alternative 5 and the EIS as a whole that need to be addressed as listed in the Specific Comments Section.</p> <p>5-2 The WGFD's primary concern with the proposed action (Alternative 4) is a definitive lack of identified management actions and agency commitment to the management actions needed to achieve the objective elk reductions for GTNP stated in the Alternative. The key for achieving Alternative 4's objective of 4,000 to 5,000 elk wintering on the National Elk Refuge (NER), as well as reducing the overall Jackson elk herd to the current population objective of 11,029, is significant reductions in elk numbers that summer in GTNP (reduced from 3,000-2,600 elk to 1,600-1,300 elk as stated in the EIS). This reduction cannot be achieved with the current emphasis on natural population regulation and less hunter harvest opportunity in GTNP. Since the WGFD does not accept excessive starvation and fertility control as acceptable population control mechanisms, the only tool to achieve the needed reductions in elk or bison numbers is with increased hunter harvest opportunity both in GTNP and the NER. Alternative 4 can be supported by the WGFD only if specific language is included in the Final EIS outlining</p> <hr/> <p style="font-size: small;">Headquarters: 5400 Bishop Boulevard, Cheyenne, WY 82006-0001 Fax: (307) 777-4610 Web Site: http://gf.state.wy.us</p> </div>	<p>5-1. Thank you for your comments.</p> <p>The agencies believe that disease risks caused by supplemental feeding warrant efforts to reduce or eliminate the program and that the consequences of not taking action could have a greater impact on the elk herd and the hunting community in the long term. In the Final Plan/EIS, Alternative 4 (the Preferred Alternative) was changed to include a budget estimate for minimizing landowner conflicts and to emphasize that the agencies would work with the Wyoming Game and Fish Department and landowners, including the local livestock community, to coordinate actions to prevent conflicts and to defray costs of managing potential conflicts.</p> <p>The National Park Service follows specific management policies, which include an emphasis on natural processes in population management. Grand Teton National Park is different because legislation expanding the park in 1950 specifically allowed an elk reduction program within the park, when it is necessary for proper herd management. NPS managers emphasize natural processes as much as possible within the park but also cooperate with WGFD managers in designing the elk reduction program. See also response 5-5 below.</p> <p>5-2. Please see responses 5-8 and 5-9 below for responses to specific comments about opportunities for hunter access.</p>

Comment No.	Letter 5 (cont.)	Response
5-2 (cont.)	<p>Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 2</p> <p>GTNP’s support for all the hunting opportunities and improved hunter access recommended by the WGFD in the Specific Comments Section, in addition to adequately addressing all the other issues identified in the Specific Comments Section. Regardless of what alternative is ultimately selected the WGFD and WGFC remain committed to managing for 11,029 elk in the Jackson herd unit.</p> <p>In our earlier comments, we identified the distinction of management authority as one of our concerns. The document continues to utilize ambiguous wording that indicates the Federal Government has authority beyond its jurisdiction. Although some edits were made to the proposed action alternative, wording remains that diminishes the State of Wyoming’s role in managing wildlife and establishing hunting seasons in GTNP, the NER, and in the Parkway.</p> <p><u>SPECIFIC COMMENTS</u></p> <p>A. Jurisdiction and Decision Area</p>	
5-3	<ul style="list-style-type: none"> • Page 3. The first paragraph states “This Draft Environmental Impact Statement (DEIS) identifies and evaluates six alternative approaches, including a proposed action, for managing bison and elk on the National Elk Refuge (refuge) and in Grand Teton National Park and the John D. Rockefeller Jr. Memorial Parkway (the park units) for a 15 year period.” We reiterate the State of Wyoming’s Statute 23-1-103 states “... <u>all wildlife</u> in Wyoming is the property of the State.” “... the policy of the State is to provide an adequate and flexible system for control, propagation, <u>management</u>, protection and regulation of <u>all</u> Wyoming wildlife.” We recommend the State of Wyoming’s jurisdictional authority be appropriately identified at the beginning of this document. The state of Wyoming will not cede its authority to manage wildlife in GTNP, the Refuge, or the Parkway. The statement addressing this issue on page 4 needs to more clearly reflect this authority. 	5-3. The Final Plan/EIS has been revised to better clarify management jurisdiction.
5-4	<ul style="list-style-type: none"> • Wildlife populations within the Parkway are actively managed by the State of Wyoming, not GTNP. It is not until page 15 that it is acknowledged that “hunting and fishing are permitted in accordance with applicable state and federal laws...” and on page 172 that hunting for elk and other wildlife is legally authorized in Parkway by the State of Wyoming. On the other hand, page 23 identifies the decision area as “National Elk Refuge, Grand Teton National Park, and the John D. Rockefeller Jr. Memorial Parkway.” It is further stated in the DEIS that “Management decisions made through this planning process will only direct management actions within these jurisdictions.” Again on page 24, the Parkway is included in the decision area. We strongly request and expect that the Parkway only be included in the analysis area with the same designation as the Bridger-Teton National Forest (BTNF). This area should <u>not</u> be part of the decision area, and we remind the authors of this document that the State of Wyoming maintains wildlife management jurisdiction in these areas. The State will not cede wildlife 	5-4. The John D. Rockefeller, Jr., Memorial Parkway, which is managed by the National Park Service, was included in the decision area because Jackson elk summer in this area. The Wyoming Game and Fish Commission (WGFC) manages hunting and fishing in the parkway, excepting temporary, extraordinary situations. Text has been added to the Final Plan/EIS to acknowledge this difference from the elk reduction program in the park.

Comment No.	Letter 5 (cont.)	Response
	<p>Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 3</p> <p>management authority decisions in the Parkway in this document or in any other fashion.</p> <p>B. Population Management</p>	
5-5	<ul style="list-style-type: none"> • <u>Page 33 and 60, Goal 2, Sustainable Populations, Grand Teton National Park/ John D. Rockefeller, Jr., Memorial Parkway.</u> “Perpetuate natural population levels including natural fluctuations and characteristics within the elk and bison populations inhabiting the national park units.” Elk populations residing in Grand Teton National Park are migratory, and only occupy the Park during part of the year. Furthermore, elk in GTNP are managed cooperatively by the Park and the State of Wyoming as outlined in Public Law 81-787. The wording of this goal directly opposes the enabling legislation expanding the Park. We also have concerns with this goal because as it is currently worded, the Parkway is included in the decision area when it is not appropriate to include it. We strongly oppose the current language in Goal 2. 	<p>5-5. The text has been revised. In the Final Plan/EIS the goal has been changed to read: “Perpetuate to the greatest extent possible natural processes and the interactions of bison and elk with natural environmental fluctuations influenced by fire, vegetation succession, weather, predation, and competition. At the same time support public elk reductions in Grand Teton National Park, when necessary, to achieve elk population objectives that have been jointly developed by the Wyoming Game and Fish Department, Grand Teton National Park, and the National Elk Refuge. Support elk hunting in the John D. Rockefeller, Jr., Memorial Parkway that is consistent with its establishing legislation.”</p>
5-6	<ul style="list-style-type: none"> • <u>Page 34 Goal 3, Numbers of Elk and Bison.</u> “The bison herd size is being revisited through this planning process.” The EIS can recommend a bison population objective but the final objective will require a public input process and a final Wyoming Game and Fish Department (WGFD) recommendation to be approved by the Wyoming Game and Fish Commission. The Wyoming Game and Fish Commission has the sole authority to establish the population objective for bison, and we request the wording be modified to reflect WGFC authority. 	<p>5-6. The Draft Plan/EIS presented various bison herd sizes to provide a range of alternatives and to compare the environmental impacts. The Preferred Alternative in the Final EIS recommends a population objective of approximately 500 animals for the bison herd. Bison numbers would be based on monitoring and available habitat, and the National Park Service and the U.S. Fish and Wildlife Service would work with the Wyoming Game and Fish Department to develop the population objective for the Jackson bison herd for approval by the Wyoming Game and Fish Commission.</p>
5-7	<ul style="list-style-type: none"> • <u>Page 63.</u> We strongly oppose establishing bull:cow ratio objectives in this federal document. These populations occupy the Park for part of the year only, and are actively managed by WGFD and not naturally regulated. Establishing management objectives, including desired bull:cow ratios, for wildlife populations in the State is the prerogative of the Wyoming Game and Fish Department. The WGFD manages the Jackson Elk Herd on a “Recreational” basis with post-hunting season bull:cow objectives ranging from 15 to 29 bulls:100 cows. Although bull:cow ratio objectives have not been established for the Jackson Bison Herd, managing for a bull:cow ratio of 100:100 is biologically unnecessary and counter productive for a hunted population of 450 to 500 animals. As previously mentioned in our April 2005 comments, a biological rationale for recommending such a high male to female ratio should be outlined in the NEPA document, so the WGFD can consider the justification when establishing management objectives for this bison herd. 	<p>5-7. The Final Plan/EIS has been modified to present desired bull-to-cow ratios as goals that the park would recommend. The Final EIS states that the agencies would “work with the Wyoming Game and Fish Department to establish goals for bison ratios.” A higher bull-to-cow ratio would be justified biologically because it would provide greater potential for genetic diversity in the herds.</p>
5-8	<ul style="list-style-type: none"> • <u>Page 79, Summary comparison of alternatives.</u> We strongly oppose closing additional lands to hunting in GTNP as proposed in some of the alternatives. 	<p>5-8. Thank you for your comment.</p>

Comment No.	Letter 5 (cont.)	Response
	<p>Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 4</p>	
5-8 (cont.)	<ul style="list-style-type: none"> Based on the interactions WGFD field personnel have had with GTNP during annual herd reduction meetings over the last 30 years, there are several obstacles making an objective of 1,300 – 1,600 elk in the Park extremely difficult to achieve. Hunting early migrants on the south end of the Refuge may only result in short-term changes in elk distribution. Hunting opportunities in addition to those on the Snake River Bottoms, Blacktail Butte, Hayfields and Antelope Flats are needed to insure population objectives can be managed over the long term in this herd. Additional hunting opportunities are needed in hunt area 72, around Kelly Hill and on the river bottoms north of Spread Creek. 	<p>5-8 (cont.). Specifics about the logistics of the elk reduction program in the park are not included in this type of management plan so that managers can adjust to conditions and change locations or strategies, such as the antlerless emphasis, as warranted by management needs or conditions.</p> <p>The National Park Service and the U.S. Fish and Wildlife Service believe that efforts should be focused on moving elk on the south end of the refuge into hunting areas. With regard to specific hunting access, Area 72 had extremely limited use when open in the past and would have limited benefits if it were opened again due to difficult access and terrain; the Kelly Hill area was closed to protect winter range; and river-bottom areas north of Spread Creek were closed because their opening resulted in law enforcement violations and dangerous situation due to people shooting across the roadway.</p>
5-9	<ul style="list-style-type: none"> In recent years, access through the Park to adjacent National Forest Lands has deteriorated further reducing hunting opportunity in the Jackson Herd Unit. We recommend that GTNP improve access through the Park to U.S. Forest Service trails at Bailey Creek, Arizona Creek, Pilgrim Creek and Pacific Creek, as authorized in Enabling Legislation Public Law 81-787 and by the Department of Agriculture. At Bailey Creek the road has been improved and the bridge has been replaced but the public road is too narrow for parking trailers and allowing safe passage of vehicles meeting on the road. The Arizona Creek parking area has been gated off leaving room for only a couple vehicles to park in the area. Signing is needed along U.S. Highway 89, 287 at Bailey Creek and Arizona Creek to assist the public locating these access routes. In Pilgrim Creek camping and access should be allowed at the parking lot as originally agreed to by Matt Murdock, Blackrock District Ranger, USFS; Alan Atchinson, Chief Ranger, GTNP; and Fred Herbel, North Jackson Game Warden, WGFD. At Pacific Creek, road maintenance is needed to provide a safe travel corridor. 	<p>5-9. The hunter access improvements requested here would not further the goal of reducing numbers of elk that summer in the park but would improve access for hunting elk that summer in the Teton Wilderness and Yellowstone National Park. Regarding potential changes in specific areas, the state has cut back on hunter harvest objectives for the Bailey Creek area, reducing the need for improved access. A few parking spaces could be added to Arizona Creek. In summer 2006 rangers assessed how the above areas could be improved. The park has always allowed camping at Pilgrim Creek during the elk reduction program but not early in the season because of insufficient staff. The National Park Service believes that the Pacific Creek road receives an appropriate level of maintenance to facilitate access by hunters and other users of that area.</p>
5-10	<ul style="list-style-type: none"> In Chapter 2, it is stated that a tribal reduction would occur based on a WGFD needs assessment. To reiterate our position on this issue, following the approval and issuance of a permit by the WGFD authorizing the removal of up to 5 bison per year, the NER may administer a ceremonial event for Native Americans. Again, we reiterate that the WGFD has the sole authority to manage all wildlife in Wyoming, including wild bison in Teton County, and a ceremonial event cannot be implemented in the NER without WGFD authorization. The event would not be promoted as a hunt, and should not be referred to as tribal reduction or bison reduction program for American Indians. This activity should be referred to as a ceremonial event involving the removal of up to 5 bison. WGFD would not be directly involved in this event, but would consider the five animals removed when setting the bison hunting season harvest goals for the state authorized bison hunt for the Jackson Bison Herd. More than five bison could be used for the bison ceremony only if the WGFD requested a higher number to assist the WGFD achieve overall harvest goals for the Jackson Bison Herd. This approach, including the stated number of bison available for Native American ceremonial purposes, is the only approach the Wyoming Game and Fish Commission and Department will support. 	<p>5-10. Thank you for your comments.</p>

Comment No.	Letter 5 (cont.)	Response
	<p data-bbox="281 232 464 302">Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 5</p> <p data-bbox="342 402 548 423">C. Feeding Comments</p> <p data-bbox="142 456 191 477">5-11</p> <ul data-bbox="373 456 1083 1138" style="list-style-type: none"> <li data-bbox="373 456 1083 781">• The DEIS poses several goals, objectives, and strategies that cannot be achieved. We currently work with the Refuge to decrease the number of day's elk and bison are fed on the Refuge and will continue to do all that is possible to reduce total days of feeding each winter, while addressing the physiological needs of the wintering elk and bison. However, we do not support the elimination of feeding as outlined in some of the alternatives within the DEIS, including the goal of feeding only in above average winters. Setting a goal of feeding only five years out of ten, in our experienced professional opinion, is unachievable without major reductions in elk numbers. Should weather conditions and animal movements allow, feeding could possibly be eliminated in any given year. Starting and stopping dates for feeding are determined by weather and its influence on elk and bison distribution and forage availability. In the past, feeding has been delayed as long as possible and animal distribution has always dictated when feeding should begin. <li data-bbox="373 813 1083 1138">• An objective that states feeding would be done on above average winters only, fails to consider that winter severity is sometimes a reflective rather than a predictive judgment. Because managers will not necessarily know on January 31st whether they are experiencing an average or above-average winter, they cannot reasonably be expected to make decisions based on that criterion. Instead, managers should look at existing winter conditions, weather forecasts, and elk behavior and distribution to make judgments and management decisions. Ambient conditions could lead to “wrong” decisions on the basis of whether it was an “above-average” winter, because proof or justification for that decision may only be available after winter has passed and elk response known. With real-time observations of existing and forecasted winter conditions, and available forage and elk distribution, experienced professional judgment has proven to be a much better method for determining when to provide supplemental feed than any set of climatological statistics. <p data-bbox="142 1170 191 1192">5-12</p> <ul data-bbox="373 1170 1083 1300" style="list-style-type: none"> <li data-bbox="373 1170 1083 1300">• We can develop strategies for reducing the number of elk wintering on the Refuge, but we do not have absolute control over the number that arrive. Management actions such as feeding/not feeding rely on successful implementation of other management, such as increasing forage or decreasing herd segments as well as whether increased forage is available during winter months. <p data-bbox="142 1333 191 1354">5-13</p> <ul data-bbox="373 1333 1083 1429" style="list-style-type: none"> <li data-bbox="373 1333 1083 1429">• The WGFD proposes and requests using Forage Utilization Rates (%) at key sites on the Refuge versus monitoring elk mortality rates as a trigger for initiating supplemental feeding. Delaying feeding until elk mortality rates are detectable at the 5% level is highly questionable and unacceptable. When elk begin dying from 	<p data-bbox="1142 456 1955 659">5-11. The agencies believe that a reduction in the feeding program could be achieved without major reductions in elk numbers and that the Jackson elk herd would remain at the objective of approximately 11,000 elk. Supplemental feeding reductions would occur gradually while forage enhancements and bison and elk numbers were reduced until they were more in balance with available forage. In addition, incorporating adaptive management into the Preferred Alternative, as well as proactive efforts to decrease management conflicts due to animal movements, would make supplemental feeding reductions realistic.</p> <p data-bbox="1142 683 1955 829">The initiation of supplemental feeding would continue to be determined by experienced, professional wildlife managers and would be based on various factors, such as assessment of growing season forage production, amount of forage offtake, temperature, snow levels, snow condition, and ungulate body condition and behavior. The January 1 Index of Winter Severity measurement could be one of the initiation criteria because it was highly correlated with feeding start dates from 1980 to 2005.</p> <p data-bbox="1142 1081 1955 1179">5-12. The agencies agree that there is no “absolute control” over how many elk arrive on the refuge in any given year and that the number would fluctuate based on available forage and management actions that affect herd segment numbers or forage location.</p> <p data-bbox="1142 1203 1955 1429">5-13. There is no 5% mortality trigger, and a mortality threshold would not trigger supplemental feeding under any of the alternatives. This comment is based on a misconception (see comment 5-34 below), which the WGFD director acknowledged in a second letter, dated November 2, 2005. Text in the Draft Plan/EIS has been revised to clarify supplemental feeding criteria (see response 5-11). Elk already familiar with livestock feeding operations in nearby Spring Gulch are more likely to move to these areas and cause conflicts if supplemental feeding did not occur on the refuge, whether or not refuge forage was available. Other animals could move with them and learn about stored hay on ranches.</p>

Comment No.	Letter 5 (cont.)	Response
	<p>Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 6</p>	
5-13 (cont.)	<p>malnutrition, it is unlikely immediate supplemental feeding will be adequate to prevent mortalities from continuing throughout the winter and exceeding the 5% threshold. Past experience of the WGFD in implementation of emergency feeding of big game during severe winters reinforce this belief. In addition, we have concerns that delaying feeding until the 5% mortality threshold is met will increase elk conflicts with homeowners and agriculture. In December 2004, elk moved off the Refuge to Blacktail Butte, then to Spring Gulch where several bulls depredated stored hay crops. Approximately 100 elk were hazed across Highway 89 to the Refuge. The same damage situation occurred in February 2003 when feeding was delayed on the Refuge.</p>	<p>5-13 (cont.). In December 2004 elk on the refuge were in good physical condition but had difficulty accessing forage in some areas because of crusted snow conditions. Protecting livestock feed stores would eventually discourage elk from trying to reach this “easy access” food source. If depredations and co-mingling with cattle did not occur, then elk wandering across private lands as part of natural native winter range movements could become acceptable.</p>
5-14	<ul style="list-style-type: none"> The WGFD is concerned about elk redistributions. We do not want elk to learn to leave the Refuge when there is no feeding. If this behavior is established and they receive food/hay rewards on private lands or at the South Park feedground, it will require more and earlier feeding to hold animals on the Refuge in the future, if they can be held at all once they learn to leave in search of food. 	<p>5-14. See response 5-13. Enhanced winter range and cultivated forage on the refuge, and fewer wintering elk and bison (compared to the current numbers that are above objective), would help keep elk on the refuge. But without daily feeding on the refuge, some elk would likely move to other areas. Preventing access to food/hay on private lands would be vital for effective management.</p>
5-15	<ul style="list-style-type: none"> The WGFD annually responds to elk damage concerns adjacent to the Refuge and in the last 15 years elk have attempted to leave the Refuge when the refuge has delayed the onset of feeding. During the winter of 2004-2005 a group of 1100-1600 elk tried to leave the refuge through a “jump” on the north end of the Refuge and were turned back by Department personnel. The DEIS should acknowledge the problems that will occur to private landowners west of the NER including the Lucas and Mead ranches, along with the smaller ranch parcels in this area. These ranches often request damage prevention materials or reimbursement for damages caused by elk. White collared elk originating from the Refuge have been observed in the Fall Creek area in the past. Elimination of feeding will likely increase movements of elk toward Fall Creek and the South Park Feedground. This down drainage drift will result in considerable problems on many remaining ranches in the valley. With this type of elk redistribution, the WGFD anticipates hundreds of conflicts with elk and homeowners in residential and rural residential areas (ornamental shrubs, carcass removal associated with mortality, hobby horse feeding and hay storage) in Spring Gulch and along the Snake River Corridor. The WGFD does not support management proposals that increase conflict with private ranches in the valley. It is important to note that during the below average winter of 2004-2005, forage production during the summer was very high. When SWE reached the mid 2.5” range with 10” of snow, 1100-1600 elk attempted to leave the refuge. The DEIS does not provide an adequate assessment of problems that will arise with the elimination of feeding. 	<p>5-15. The Draft Plan/EIS acknowledged these potential impacts. Some down-drainage drift toward Fall Creek and South Park, as well as drift toward the Gros Ventre River drainage, could occur. In the Final Plan/EIS, Alternative 4 (the Preferred Alternative) was changed to include a budget estimate for minimizing landowner conflicts and to emphasize that the agencies would work with the Wyoming Game and Fish Department and landowners, including the local livestock community, to coordinate actions to prevent conflicts and to defray costs of managing potential conflicts.</p>
5-16	<ul style="list-style-type: none"> In addition to not adequately evaluating the effect elk dispersal will have on private lands, the document fails to disclose the impacts that no feeding will have on existing populations of ungulates already wintering on limited ranges. Since 2000, an average of 57 moose have been observed adjacent to the Refuge during 	<p>5-16. The Draft Plan/EIS acknowledged and analyzed impacts on existing populations of other ungulates. Some increases in competition for forage on native winter ranges would occur, even though species have habitat preferences and may occupy discrete areas by choice. Deer, moose, and bighorn sheep populations have been declining for unknown reasons, while feedgrounds have restricted winter distribution in most of the Jackson elk herd. More research needs to be done to determine the causes of these declines.</p>

Comment No.	Letter 5 (cont.)	Response
<p data-bbox="142 378 199 427">5-16 (cont.)</p> <p data-bbox="142 610 199 634">5-17</p>	<p data-bbox="283 228 464 297">Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 7</p> <p data-bbox="405 378 1083 589">annual classification flights and an average of 30 moose have been observed annually in the lower reaches of the Gros Ventre upstream from the Park boundary. Also during this same time period an average of 2,126 elk were observed annually on these same winter ranges. Figure 1 depicts the moose and elk distribution during the WGFD annual February classifications flights from 2000 through 2005. Numbers of moose in the Jackson moose herd have declined recently and some researchers suggest that over browsing and limited winter range has contributed to this decline. Crucial moose winter ranges cannot support additional pressure from elk displaced by the elimination of feeding.</p> <ul data-bbox="373 618 1083 1109" style="list-style-type: none"> • Competition with bighorn sheep is also an issue that the DEIS fails to address. In recent years an average of 46 bighorn sheep have been observed annually east of the Refuge on crucial winter ranges in Curtis Canyon and Flat Creek. On Miller Butte an average of 16 bighorns have been observed annually and in the lower reaches of the Gros Ventre drainage an average of 59 bighorn sheep have been observed. These observed sheep numbers are considerably lower than levels observed prior to a 2001 pneumonia outbreak in this sheep herd. Approximately 50-70% of the sheep wintering in the lower Gros Ventre, Flat Creek, Curtis Canyon and Miller Butte crucial winter ranges died as a result of this outbreak. This outbreak was likely stress induced and related to limited forage on limited winter ranges. Elk numbers and subsequent competition for forage is already high on these bighorn sheep winter ranges (Figure 2). Since 2000 an average of 1,249 elk shared winter range with bighorn sheep east of the NER, and an average of 441 elk in the lower Gros Ventre west of Crystal Creek to the GTNP boundary. Over the last several years the number of elk observed west of Crystal Creek has been increasing. The increase in elk observed is due to the delayed initiation of feeding on the NER in recent years. An increasing number of elk with white neckbands from the Refuge have also been observed in the Lower slide Lake and Red Hills areas where bighorn sheep spend the winter. Additional elk use on these crucial bighorn sheep winter ranges due to a reduction in elk feeding will further exacerbate the situation. 	<p data-bbox="1140 378 1957 475">5-16 (cont.). Adaptive management and monitoring of elk numbers, distribution, winter conditions, and forage availability have been built into Alternative 4 (the Preferred Alternative in the Final Plan/EIS) to prevent negative impacts from elk in the long term. Text has been added in the Final Plan/EIS to better discuss this issue.</p> <p data-bbox="1140 496 1957 670">Because Figure 1 combined classification flight data on moose and elk distribution for multiple years, determining actual species overlap is difficult. Even if the figure is meant to depict general habitat use, there does not appear to be much overlap. Many elk groups are located outside the refuge, and elk and moose appear to occupy separate areas. It is difficult to say how much competition would actually increase without refuge supplemental feeding. The factors behind declining moose numbers are unknown and need to be determined.</p> <p data-bbox="1140 691 1957 898">5-17. See response 5-16. The Draft Plan/EIS acknowledged the potential for increased competition with bighorn sheep in some areas. Like Figure 1, Figure 2 combines years of data and does not show overlap in specific years. Viewed in terms of general habitat use, elk and bighorn sheep locations appear to be even more separated than elk and moose locations in Figure 1. Competition could increase in some areas, but given bighorn preferences for escape terrain and nearby areas (Smith 1991), it may be limited by habitat preferences. Northern range data on elk / bighorn relationships have been inconclusive (Houston 1982; Singer and Norland 1994, 1996).</p>

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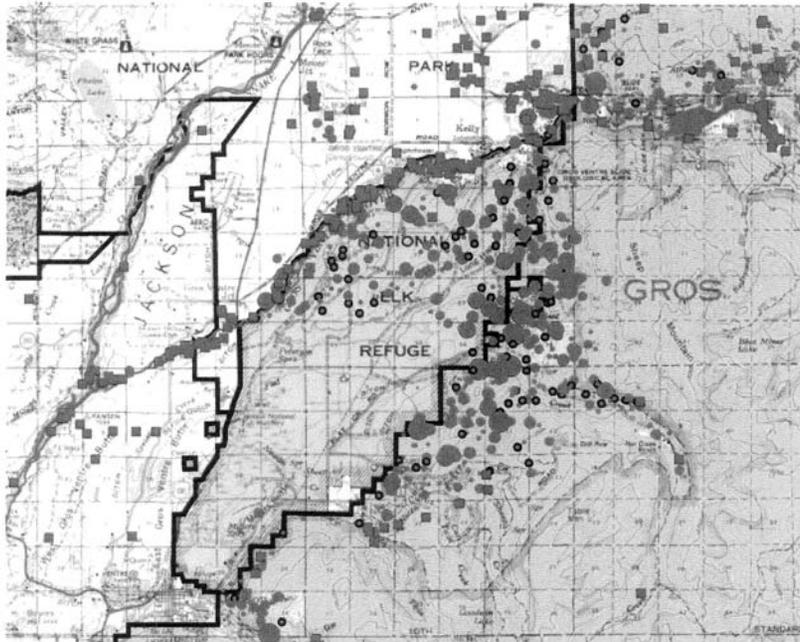


Figure 1. Elk locations by group size (blue symbols) and moose locations (red squares) during WGFD annual February classification flights, 2000- 2005. Graduated symbols for elk represent the variable group sizes that are observed during these flights. The smallest symbol represents 1-10 elk and the largest symbol represents 125 – 200 elk.

Comment No.	Letter 5 (cont.)	Response
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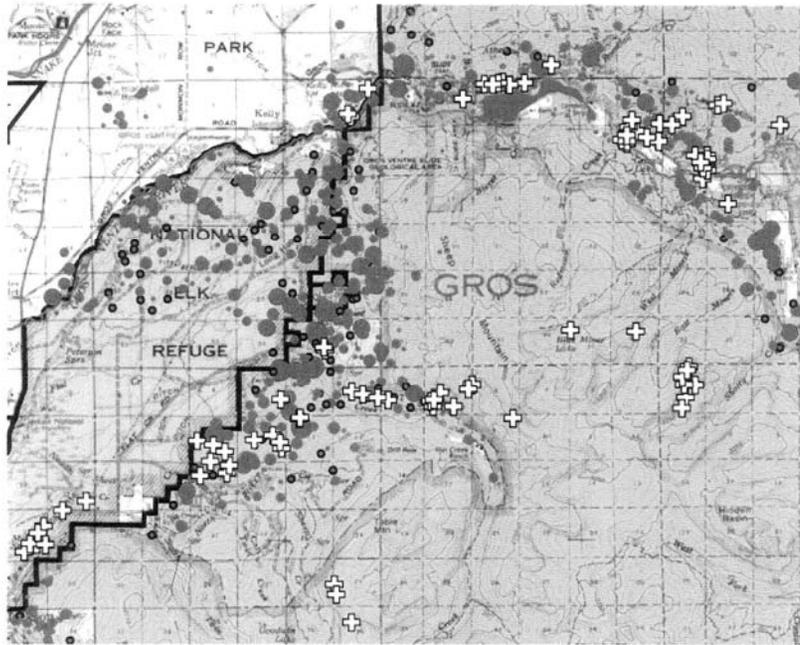


Figure 2. Elk locations by group size (blue symbols) and bighorn sheep locations (white crosses) during WGFD annual February classification flights, 2000- 2005. Graduated symbols for elk represent the variable group sizes that are observed during these flights. The smallest symbol represents 1-10 elk and the largest symbol represents 125 – 200 elk.

- 5-18**
- During meetings, we recommended that a rerun of the forage availability model be completed utilizing a Snow Water Equivalent (SWE) value at which elk moved from the refuge to private lands last winter. This movement threshold was determined to be 2.5-2.7 versus 6 SWE. Our assessment indicates that when SWE is above the 2.5- 2.7 threshold the following will occur; significant elk displacement from the Refuge, over-browsing of native aspen and cottonwood communities, increased competition between elk with sheep and moose on winter ranges, and damage to private lands. In addition, disease risk for livestock will be elevated when elk and bison commingle with horses and cattle in the valley.
- 5-19**
- In addition to our concerns regarding the use of a SWE of 6, the analysis fails to disclose the effects that crusting of snow has on elk movements and forage

5-18. The forage availability model used a snow water equivalent value of 6 (6 SWE) to indicate when no forage would be available to ungulates. At SWE of 0, 1, and 2, 100% of forage was considered available, with a linear reduction in forage availability with a snow water equivalent greater than 2 (75% forage availability at 3 SWE, 50% at 4 SWE, 25% at 5 SWE, and 0% at 6 SWE) (Hobbs et al. 2003). Elk movements would be expected when the snow water equivalent was greater than 2, particularly when crusted snow conditions occur in some areas. For example, in 2004 limited observations indicated that forage supplies were exhausted in areas with less than 2.5 SWE; forage remained in areas of about 2.5–2.7 SWE, but it was inaccessible due to heavy crusting (Cole, pers. comm. 2006). Yet, snow in adjacent vegetation exclosures remained light, in contrast to areas outside the exclosures. High ungulate densities may be a factor leading to compacted snow conditions and exacerbating crusting effects. Monitoring snow conditions and other factors (elk numbers, available forage, wolf activity) that may affect elk movements need to be assessed for a longer period of time before definitive conclusions can be determined.

Another factor affecting elk movements at low snow water equivalents is that some elk wintering on the refuge have learned about livestock feeding operations nearby in Spring Gulch and may move toward these areas even when refuge forage is adequate but not quite as accessible or as palatable as hay or alfalfa pellets. The Final Plan/EIS has incorporated adaptive management techniques and emphasizes working with the Wyoming Game and Fish Department and landowners, including livestock owners, to both prevent and manage potential conflicts.

Under current conditions, severe overbrowsing of native aspen and cottonwood communities occurs because of feedground concentrations of elk and bison.

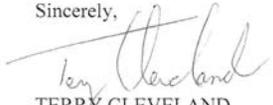
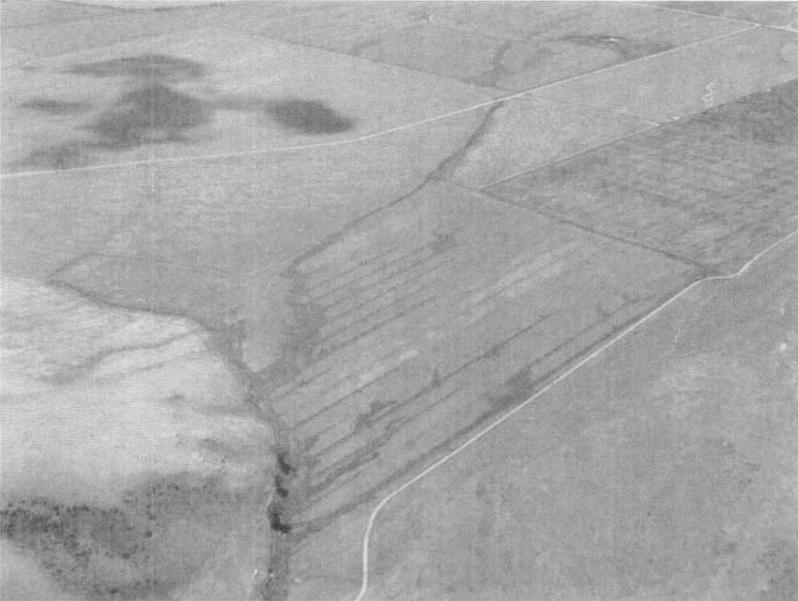
Regarding competition, see responses 5-16 and 5-17 above.

5-19. The analysis acknowledged that snow crusting affects forage availability (Draft Plan/EIS, pp. 94, 250) and that elk movements in winter are tied to where accessible forage is located. Because crusted conditions are “highly variable and only portions of the area develop these crusts” (Farnes, Heydon, and Hansen 1999), the impacts are also highly variable. Impacts depend on when crusting occurs, how hard or deep it is, how extensive affected areas are, and how long it lasts.

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	<p>Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 10</p>	
5-19 (cont.)	<p>availability. In effect, the failure to consider crusting of snow and how this influences elk movements and foraging behaviors weakens the assumptions derived from the modeling effort. Reporting model results with "qualifiers" does not strengthen the validity of the model or its assumptions, rather it is misleading. Based on historical observations, nearly every January, a warm period occurs that creates a layer of crust on the snow that limits forage availability. In addition, this warming effect also creates an ice layer at the ground level that prohibits the use of forage available close to the ground.</p>	<p>5-19 (cont.). All modeling must be based on a set of assumptions, and the disclosing of these assumptions clarifies modeling results. Snow crusting was not included in the Hobbs model because such conditions are highly variable.</p>
5-20	<ul style="list-style-type: none"> The response by Hobbs regarding utilizing a lower SWE in the model, paraphrased from our recent interagency meeting, is " the result of reducing the maximum threshold to 2.5-2.7 in an additional analysis would simply suggest that less elk can be wintered...". Since our past observations indicate that elk movement occurs at SWE of 2.7 or greater, the use of the 2.5- 2.7 SWE threshold for feeding under Alternative 5 along with experienced professional judgment, forage utilization/availability and animal distribution is the preferred approach to evaluate when to begin feeding. 	<p>5-20. The decision to initiate supplemental feeding would continue to be based on the professional judgment of experienced resource managers and a variety of factors, including growing season for forage production, amount of forage offtake, temperature, snow levels, snow condition, and ungulate body condition and behavior.</p>
5-21	<ul style="list-style-type: none"> Simply addressing damage and commingling problems by stating that the WGFD " will remove those problem animals" is beyond the scope of this document and unacceptable. Damage situations are handled on a case-by-case basis and we oppose the use of language that commits the State of Wyoming to certain management activities. We are also unwilling to become de facto managers in resolving conflicts arising from unrealistic management actions by other agencies. 	<p>5-21. Alternative 4, the Proposed Action in the Draft Plan/EIS, has been modified to allow greater flexibility in management and is the Preferred Alternative in the Final Plan/EIS. This alternative emphasizes collaboration with the Wyoming Game and Fish Department and the local livestock community to prevent and manage conflicts due to bison or elk dispersal. The text in the Final Plan/EIS has been revised to describe these cooperative efforts to prevent and manage conflicts.</p>
5-22	<ul style="list-style-type: none"> Irrigation can be a valuable tool to delay the onset of feeding on the Refuge. In the DEIS it is stated that the Refuge flood irrigates an average of 930 acres per year. Based on this past summer's water distribution, it appears there is much less acreage presently being irrigated than stated in the DEIS. There is photographic documentation that illustrates the green belt of vegetation adjacent to the irrigation ditches on several of the Refuge's irrigated fields. On these fields the actual acreages receiving adequate water is substantially less than what is projected. 	<p>5-22. The Draft Plan/EIS noted that the current refuge flood irrigation system is highly inefficient. See comment 5-33, second paragraph.</p>
5-23	<ul style="list-style-type: none"> Chapter 2 states that bison will continue to be hazed off Refuge lands during the growing season to prevent utilization of winter forage. The present situation may prove that statement over-optimistic. During September 2005, bison moved onto the Refuge and daily hazing has proven unsuccessful. Currently, there are several hundred bison residing on the Refuge. The WGFD can work cooperatively to set hunting seasons to remove bison in conflict with management programs. 	<p>5-23. Trucks would be used to haze bison when possible.</p>
	<p>D. Undocumented Prion Diseases - Chronic Wasting Disease</p>	

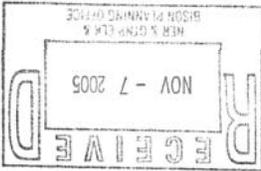
Comment No.	Letter 5 (cont.)	Response
	<p data-bbox="262 215 457 285">Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 11</p>	
5-24	<ul data-bbox="359 370 1058 464" style="list-style-type: none"> On page 132, the second paragraph states that CWD is both infectious and contagious. This is true for mule deer and elk but not for livestock and humans. A statement is needed that clarifies that all evidence and testing to date show humans and domestic livestock are not susceptible to CWD. 	<p data-bbox="1142 363 1955 672">5-24. Text in the Final Plan/EIS has been revised to indicate CWD-affected species, which include deer, elk, and moose. The Draft Plan/EIS acknowledged that CWD would not affect livestock (p. 490). It also acknowledged that there is no current evidence that CWD can infect humans, although ongoing research is attempting to definitively determine whether it can or not. Because Creutzfeldt-Jakob disease (CJD) in the Colorado/Wyoming CWD endemic area has not increased, and because there is no evidence for a link between CWD and unusual cases of CJD in humans, the risk to humans appears low (Belay et al. 2004). The authors note that the species barrier may not prevent transmission completely and that long-term surveillance for human prion diseases continues to be important (Belay et al. 2004). Kong et al. (2005) used transgenic mouse models to determine that a substantial species barrier exists between humans and elk. Text analyzing potential impacts to humans has been deleted.</p>
5-25	<ul data-bbox="359 495 1073 630" style="list-style-type: none"> Page 132: Statement: "CWD...could spread rapidly through the elk herd." Based on all known epidemiology of transmission of CWD in elk, both captive and free-ranging, it is extremely unlikely that CWD will "spread rapidly." It will probably take several years of exposure to see prevalence levels greater than currently exist in elk in the CWD endemic area. "Rapidly" should be deleted from this statement. 	<p data-bbox="1142 688 1955 894">5-25. The word "rapidly" has been deleted. However, "several years" should be considered a rapid pace for a fatal disease that can be transmitted by a contaminated environment as well as by infected herd mates. Although CWD is a chronic, typically slow-spreading disease under natural conditions, it is rapidly transmitted in captive deer herds (Miller and Wild 2004) and is likely to spread more rapidly in the Jackson elk herd, which is concentrated on feedgrounds for several months each winter, than in non-fed herds. Eliminating or reducing feeding operations may not prevent CWD, but these actions would decrease the potential for major impacts.</p>
5-26	<ul data-bbox="359 660 1066 802" style="list-style-type: none"> Page 132: Statement: "Hence management options are limited; infected animals are quarantined and killed." This statement is not factual. No state or federal agency is "quarantining" CWD-infected cervids, and then killing them because there is no antemortem test for elk. Also, there is no large-scale culling of elk to decrease prevalence anywhere in North America. This statement should be deleted or modified to reflect existing management actions. 	<p data-bbox="1142 911 1955 1062">5-26. This statement has been revised to prevent confusion. Several states have quarantined and/or depopulated captive CWD-infected cervids. For example, New York quarantined several captive white-tailed deer facilities and depopulated others in May 2005 (Dierauf and Fischer 2005), and a Minnesota white-tailed deer game farm found to be infected was quarantined in March 2006 (Roffe, pers. comm. 2006). The U.S. Department of Agriculture CWD rules do not require quarantine.</p>
5-27	<ul data-bbox="359 833 1066 992" style="list-style-type: none"> Page 132: Statement: "...recent outbreaks in other western states have heightened concern about its spread due to the serious consequences of infection and its relation to mad cow disease and a mad cow variant that has killed humans." No "serious consequences" of infection have been documented in any free-ranging cervid population. Any serious consequence is speculative at this time. Cervid (deer) populations have been reduced by agency culling, but not by CWD. 	<p data-bbox="1142 1078 1902 1131">5-27. The text has been revised to clarify reasons for concern about the spread of CWD.</p>
5-28	<p data-bbox="388 1016 1073 1230">The latter part of this sentence could be inferred by the public that there is definite human health risk due to CWD in elk. This cannot be supported by any current scientific or epidemiologic evidence. Recent human health epidemiologic studies do not support any evidence of an increase in transmissible spongiform encephalopathies in Colorado or Wyoming. In addition, the authors of recent, and extremely compelling, research examining the probability of humans contracting transmissible spongiform encephalopathy from the elk CWD prion concluded, "that there is a substantial species barrier for transmission of elk CWD to humans."</p> <p data-bbox="388 1255 1058 1328">Based on what is scientifically known about the human health risks of CWD, the above statement is pejorative and misleading and should be altered to reflect the extreme improbability of a human health risk.</p>	<p data-bbox="1142 1148 1948 1201">5-28. The text has been revised to clarify what is known about human health risk. See response 5-24.</p>
5-29	<ul data-bbox="359 1359 1050 1432" style="list-style-type: none"> Page 133: Statement: "However, transmission does appear to be related to the density of susceptible hosts." This statement is speculative and cannot be supported by objective data. It is equally likely, and perhaps more so, that 	<p data-bbox="1142 1343 1934 1419">5-29. This text suggestion has been added. Density likely plays a role through faster and greater seeding of the environment with the prion agent, and enhancement of animal-to-animal contact.</p>

Comment No.	Letter 5 (cont.)	Response
	<p>Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 12</p>	
5-29 (cont.)	<p>transmission is more a function of prion load (time and space) in the environment, irrespective of animal densities. This statement should be altered to read that transmission is unknown but may be influenced by animal numbers, time of occupation of a given space by infected animals, and amount of space occupied by infected animals.</p>	
5-30	<ul style="list-style-type: none"> Page 133: Statement: "Transmission...is spread by means of feces or saliva.....": There are no scientific studies to support this statement and it should be stricken or qualifying language added (e.g., transmission <i>may</i> be by feces, saliva, urine or other means). 	<p>5-30. The text has been revised to clarify what is known about transmission. Researchers agree that prions are shed by the infected animal, that transmission occurs through animal-to-animal contact, and that feces or saliva are the likely means.</p>
5-31	<p>E. Mammals-Other Ungulates-Impacts of the Alternatives</p> <ul style="list-style-type: none"> Page 364: Statement: "The introduction of chronic wasting disease into the mule deer population in the Jackson Hole area would have an adverse effect on the population, irrespective of elk management in Jackson Hole." This statement is presented as fact when it is entirely speculative. There have been no documented "adverse effects" of CWD on mule deer populations anywhere, other than those caused by human intervention. Thus far, mathematical models predicting "adverse effects" have not proven correct. This statement is pejorative and appears to be biased to influence the reader. It is <i>unknown</i> what effect CWD has on any free-ranging cervid population and all statements should reflect that fact. <p>These "adverse effects" are repeated on pages 366, 369, 371, 376</p>	<p>5-31. "Adverse effect" in the Draft Plan/EIS means a negative effect versus a positive one, not that a major negative impact is expected. CWD prevalence varies across the endemic area and has reached as high as 15% in some infected mule deer herds. Because research indicates that it is a fatal disease, even if prevalence is low, the effect is negative.</p>
5-32	<p>F. Impacts on Human Health and Safety-Impacts of the Alternatives</p> <ul style="list-style-type: none"> Page 434: Statement: "...if it is determined that humans could become infected through handling elk, the risk of transmission under Alternative 1 in the long run term would be similar to baseline levels of risk." Although the qualifier, "if" is employed in the above statement, the inference is that there is a quantifiable probability of CWD transmission to humans, which is entirely speculative and unsupported. This is particularly inferred by the egregious reference to some baseline "levels of risk," which simply do not exist. <p>Any inference that humans can contract CWD is speculative and extremely improbable based on known scientific investigations. The entire discussion of a risk to humans from CWD is presumptuous. It would be far more accurate and honest to simply state that, at this time, it is unknown if CWD poses a human health threat and to make no further presumptions or speculations.</p> <p>Similar associations of CWD with a human health risk are found on pages 435, 438, 440, 441, 443</p>	<p>5-32. The discussion of potential transmission risk to humans has been revised. The sections of text mentioned here have been deleted in the Final Plan/EIS.</p>

Comment No.	Letter 5 (cont.)	Response
<p>5-32 (cont.)</p>	<p>Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 13</p> <p>The draft language refers to the human health risk of CWD yet ignores any possible transmission risk to domestic livestock, albeit that transmission risk is also extremely unlikely. This approach appears biased toward engaging the reader to support any alternative that diminishes the supposed threat of CWD.</p> <p>Sincerely,  TERRY CLEVELAND DIRECTOR</p> <p>TC:VS</p> 	<p>5-32 (cont.). Livestock are not likely to eat infected deer or elk meat. See response 5-24 for why the Draft Plan/EIS discussed what is known about potential CWD risk to humans. The Final Plan/EIS retained this discussion but removed any further analysis of the subject.</p>

Comment No.	Letter 5 (cont.)	Response
	<p data-bbox="289 228 472 293">Ms. Laurie Shannon October 10, 2005 WER 10079 – Page 14</p> <p data-bbox="289 370 1033 440">Green belt vegetation adjacent to irrigation ditches along the Curtis Canyon Road on the National Elk Refuge, August 1, 2005. Note the land in the upper right corner was farmed this past spring.</p>  <p data-bbox="289 1040 1016 1089">Green belt vegetation along irrigation ditches in the Chambers area adjacent to the National Forest boundary, August 1, 2005</p>	

Comment No.	Letter 5 (cont.)	Response
5-33	 <p style="text-align: center;">"Conserving Wildlife - Serving People" November 2, 2005</p> <p><u>MEMORANDUM</u></p> <p>TO: Wyoming Game and Fish Commission</p> <p>FROM: Terry Cleveland, Director <i>T.C.</i></p> <p>COPY TO: Jackson Bison and Elk Management Planning Office, John Emmerich, Barry Reiswig, File</p> <p>SUBJECT: Draft Bison and Elk Management Plan and Environmental Impact Statement</p> <p>Thank you for forwarding a copy of Barry Reiswig's correspondence to you of October 20, 2005 in which he took exception to some of the Department's comments on the Draft Bison and Elk Management Plan and Environmental Impact Statement (DEIS). This memo will serve as the Department's response to the two main issues Mr. Reiswig raised. It is my hope this correspondence clarifies the Wyoming Game and Fish Department's statements made in reference to the DEIS.</p> <p>It was not the Department's intent to question the number of acres reported as annually irrigated on the NER in the DEIS. The intent was to point out that the Department believes the current flood irrigation techniques are inefficient and will need to be substantially upgraded to allow the NER to meet the forage production goals stated for Alternatives 4, 5 and 6. The DEIS illustrates this point by saying that approximately 40% of irrigation water is lost during transport. The photographs that were included in the Department comments were meant to illustrate there is a significant need to upgrade the system to deliver water more efficiently and effectively.</p>	5-33. Thank you for these clarifications.
5-34	<p>The Department acknowledges the DEIS does not refer to 5% winter mortality as a "trigger" for initiating feeding, but its treatment of the issue on pages 67 and 68 is not clear. The Department recognizes and agrees that "trigger" was a poor choice of words. By stating that feeding will be delayed longer in alternative 3 and 4 to reflect (allow) a higher acceptable mortality rate (5% compared to 1.5% under Alternative 1, the current situation) gives the impression that 5% mortality at the end of the winter is the main criteria for determining if the initiation of feeding was timed correctly. The Department believes the wide variety of factors identified in Mr. Reiswig's correspondence (environmental, habitat, animal condition) need to be the primary focus of any decision regarding when to initiate feeding. It remains the Department's concern the DEIS is not as clear as it should be on this crucial point. From the Wyoming Game and Fish Department's perspective there is too much emphasis on what is</p>	5-34. The text in the Final Plan/EIS has been revised to prevent confusion about feeding criteria.
<hr/> <small>Headquarters: 5400 Bishop Boulevard, Cheyenne, WY 82006-0001 Fax: (307) 777-4610 Web Site: http://gf.state.wy.us</small>		

Comment No.	Letter 5 (cont.)	Response
5-35	<p>Wyoming Game and Fish Commission November 2, 2005 Page 2</p> <p>“acceptable” mortality in the context of when to initiate feeding and not enough emphasis and discussion on all the other factors that need to be considered.</p> <p>I apologize for any misunderstanding that were the result of the Department’s comments. I am forwarding a copy of this memo to Mr. Reiswig in order that he is informed of these additional comments and in order that the letter can become an official part of the record in considering the DEIS.</p> <p>TC/JE/lis</p> 	5-35. Thank you.