



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Montana/Dakotas State Office
5001 Southgate Drive
Billings, MT 59101
<https://www.blm.gov/montana-dakotas>

January 16, 2026

Dear Permittee or Interested Public:

NOTICE OF PROPOSED DECISION

Pursuant to a memorandum dated December 9, 2025, the Secretary of the Interior assumed jurisdiction over administrative appeals challenging the Bureau of Land Management's (BLM) July 28, 2022, Final Decision that modified grazing permits held by American Prairie (formerly known as American Prairie Reserve) to authorize a change in kind of livestock from cattle only to cattle and/or bison on BLM-administered grazing allotments in Phillips County, Montana. On December 15, 2025, the Secretary granted the BLM's motion to remand that decision without vacatur and directed the BLM to reconsider its previous decision in light of the issues raised by the parties to the appeals and in coordination with the Office of the Solicitor. Consistent with the Secretary's direction, this Notice of Proposed Decision reflects the BLM's reconsideration of its previous decision, in coordination with the Office of the Solicitor, and the BLM's understanding of the scope of its permitting authority under the Taylor Grazing Act (TGA) (43 U.S.C. § 315 *et seq.*) and related statutory authorities.

This letter serves as notice of the BLM Proposed Decision affecting seven BLM grazing allotments involved in the 2022 Final Decision and so relevant to the Secretary's December 15 order granting the BLM's motion for remand. The seven allotments are Telegraph Creek (allotment #05654), Box Elder (allotment #15634), Flat Creek (allotment #15439), Whiterock Coulee (allotment #15417), East Dry Fork (allotment #05617), French Coulee (allotment #05616), and Garey Coulee (allotment #05447). The permittee on record for each of the seven allotments is American Prairie.

BACKGROUND

On July 28, 2022, the BLM Malta Field Office issued its Final Decision authorizing cattle and bison permits to American Prairie on seven allotments in Phillips County, Montana. Specifically, the BLM authorized cattle and/or bison grazing permits on four allotments (Flat Creek, Whiterock Coulee, French Coulee and Garey Coulee), authorized bison grazing permits on two allotments where bison grazing was previously permitted (Telegraph Creek and Box Elder), and authorized cattle-only grazing permits on the East Dry Fork Allotment. Telegraph Creek and

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KANSAS, MONTANA, NEBRASKA, NORTH DAKOTA, SOUTH DAKOTA, & IDAHO, OREGON, WASHINGTON

Box Elder Allotments were originally permitted for cattle-only, but were subsequently converted to bison in 2005 and 2008, respectively (Notice of Final Decision, August 26, 2005, Change in Class of Livestock; EA-MT-090-04-026 and Notice of Final Decision, May 15, 2008, Middle Box Elder Allotment Change in Livestock Use; EA-MT-090-08-019).

The 2022 Final Decision was appealed to the Department of the Interior, Office of Hearings and Appeals, Departmental Case Hearings Division (DCHD) by various parties, including the State of Montana, which filed two separate appeals, by and through its Governor and by and through its Attorney General, respectively. The Appellants sought to stay the 2022 Final Decision; however, the stay requests were denied by both the DCHD and the Interior Board of Land Appeals.

In March 2023, the BLM issued the permits described above to American Prairie on all seven allotments in accordance with the 2022 Final Decision. On February 3, 2025, in the then-still-pending administrative appeals, the BLM filed a Motion for Voluntary Remand without vacatur of the 2022 Final Decision.

Most recently, on December 9, 2025, pursuant to 43 CFR 4.5, the Secretary of the Interior assumed jurisdiction of the administrative appeals. Thereafter, on December 15, 2025, the Secretary granted the BLM's February 3, 2025 Motion for Remand without vacatur of the 2022 Final Decision. In so doing, the Secretary directed the BLM to consider arguments raised in the appeal in the course of the BLM's review of the 2022 Final Decision and to coordinate with the Office of the Solicitor.

LEGAL AUTHORITY

The Secretary's Remand Order directed the BLM to work with the Office of the Solicitor to ensure, in light of the issues raised in the course of the administrative appeal, that the BLM's decision on remand is consistent with the statutory authority afforded the bureau by Congress in the TGA. Based on that coordination, the BLM issues this Proposed Decision consistent with its understanding that its authority to grant grazing permits under the TGA is limited to cases where the animals to be grazed are domestic and will be used for production-oriented purposes.

The TGA authorizes the BLM to "issue or cause to be issued permits to graze *livestock*." 43 U.S.C. § 315b (emphasis added). The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. § 1701 *et seq.*) provides a refined statutory framework for the exercise of this authority and refers to "permits and leases for *domestic livestock* grazing on public lands." *Id.* § 1752(a) (emphasis added). And the Public Rangelands Improvement Act (PRIA) (43 U.S.C. § 1904 *et seq.*) further confirms the congressional understanding that grazing under the TGA is intended for "domestic livestock" by defining the term *rangelands* to mean, in pertinent part, "lands . . . on which there is *domestic livestock* grazing or which the Secretary . . . determines may be

suitable for *domestic livestock* grazing.” *Id.* § 1902(a) (emphases added). Because the TGA authorizes the BLM to issue grazing permits only for grazing by “livestock,” 43 U.S.C. § 315b, the scope of that term, properly understood, also establishes the scope of the BLM’s permitting authority.

The TGA, FLPMA, and PRIA do not define the term *livestock*. The BLM’s regulations define the term to mean “species of domestic livestock—cattle, sheep, horses, burros, and goats.” 43 C.F.R. § 4100.0-5. But that definition does not answer the question whether *livestock* can mean anything other than animals managed as part of a production-oriented operation. The term *livestock* is a compound of the words *live* and *stock*. The term *stock* is tied to commerce, *i.e.*, “[a] merchant’s goods that are kept for sale or trade.” *Black’s Law Dictionary* (12th ed. 2024) (definition of *stock*). The dictionary definition, therefore, supports the proposition that *livestock* as used in the TGA and related authorities refers to animals “kept for sale or trade,” *id.*, and that the authority to issue grazing permits and leases is limited to applicants who will use the animals to graze the public lands in that manner.¹

The addition of the term *domestic* to modify *livestock* in FLPMA and PRIA, and in the grazing regulation’s definition of the latter term, puts further gloss on the appropriate scope of BLM grazing authorizations. As with the term *livestock*, the term *domestic* is left undefined by the statutes that use it. Its plain and obvious meaning, when applied to animals, is as the opposite of *wild*.² Therefore, animals that are presently treated as *wild* or are intended to be released into the *wild* or integrated into a *wild* herd in the future are not properly considered “domestic livestock.”

The BLM, therefore, may issue permits where the animals to be grazed will be used for production-oriented purposes. That would include their being used for their meat, milk, fiber, or

¹ This understanding of the term *livestock* (and *domestic livestock*) finds further support in the text and historical context of the TGA. The TGA was enacted in 1934, amid the Great Depression and facing the Dust Bowl. The Great Depression, which had begun five years earlier, in 1929, and would continue through the 1930s, resulted in widespread malnutrition and even starvation of Americans. The TGA was passed to stabilize the livestock industry, including by protecting the public rangelands from erosion caused by the overgrazing that had resulted from treating those lands as a commons. Administrative courts that have had occasion to consider whether the term *livestock* may extend to bison specifically have concluded that it may in some circumstances, but not in others. In *Hampton Sheep Co. v. Bureau of Land Mgmt.*, Docket No. WY-01-74-01 (Sept. 26, 1975), the Department’s Office of Hearings and Appeals found that bison may be considered “livestock” within the meaning of the TGA “when in substantial respects they are treated as livestock and have characteristics in common with livestock.” *Id.* at 13. The court went on to conclude, as a factual matter, that the bison in question in that case were “in many respects similar to cattle, and are to be utilized for the most part as cattle or other ‘livestock’ might be.” *Id.* (emphasis added). In other words, the bison in that case were managed for production in that they would be used “as cattle . . . might be,” and that is what brought them within the meaning of *livestock* under the TGA. *Id.* Were it otherwise, the theory underpinning *Hampton Sheep* would lead to the opposite conclusion as bison destined for non-production are better understood to be “wildlife” and so outside the meaning of *livestock*. *Cf. id.* (finding that “animals normally classified as ‘wildlife’ may be ‘livestock’” but only when “in substantial respects they are treated as livestock”).

² See “Domestic.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/domestic> (“tame, domesticated”).

other animal products. The meaning of *livestock* also extends to animals used in support of production-oriented operations, such as horses used to herd cattle managed for production. Conversely, the BLM lacks statutory authority to issue grazing permits under the TGA where the animals to be grazed are treated as wildlife and will not be managed for production in this way, and so fall outside the meaning of the term *domestic livestock*.

RATIONALE FOR PROPOSED DECISION

Based on a review of the record, which includes the arguments presented by the parties throughout the administrative appeal of the 2022 Final Decision, there are multiple times wherein by the applicant's own admissions it is clear that these bison are not managed for production-oriented purposes and so do not fall within the meaning of the terms *livestock* and *domestic* as those terms are used in the applicable statutory authorities. Specifically, the applicant's stated goals in connection with its use of these allotments is to restore and conserve the genetic, ecological, and behavioral features of "wild bison."³ Moreover, the applicant previously indicated to the Department of the Interior that its mission is to develop the largest, most genetically diverse *conservation* bison herd in North America. Letter from American Prairie Reserve to Governor Steve Bullock and Fish and Wildlife Service Director Martha Williams, dated September 5, 2017.

The applicant has also indicated that it seeks to manage its bison as "wildlife according to the Public Trust Doctrine" for the common good of the public. American Prairie Reserve, *Bison Management Plan*, at 117 (2018). In addition, the applicant previously indicated that its goal is to purchase "500,000 acres and stitch together three million acres of existing public lands. When these public and private lands are connected, the Reserve will be the size of Connecticut, the largest of its kind in the Lower 48 states, one and a half times larger than Yellowstone." Email from American Prairie Reserve to the BLM, dated July 20, 2017. In yet another statement, the applicant is plainly explicit about its intentions:

They're allowing us to use government public land, without any kind of product like oil and gas, timber, mining or cattle ranching. They're not asking us to use it for commercial purposes. That's fantastic. And we're one of the only ones they're allowing to do that. It's just never been asked before. "Hey, can we use millions and millions of acres for absolutely nothing, except the public's enjoyment?"⁴

³ <https://americanprairie.org/bison-restoration/>, last visited January 16, 2026.

⁴ Talks at Google: Sean Gerrity, American Prairie Reserve (April 14, 2015), <https://www.youtube.com/watch?v=QUW-XemFSFo>.

PROPOSED DECISION

The record discussed above demonstrates that American Prairie's bison herd is managed as wildlife in a way that is not meant for production according to the meaning of the term *domestic livestock*. Under the TGA, FLPMA, and PRIA, such animals do not qualify as livestock for which the BLM may lawfully issue grazing permits.

Therefore, the BLM lacks statutory authority under the TGA to authorize grazing by bison under the circumstances presented here. Rescission of the 2022 Final Decision and cancellation of the associated permits authorizing bison grazing is therefore required to bring the BLM's permitting actions into compliance with governing law. 43 U.S.C. § 315b; 43 CFR 4130.3-3.

Reissuing cattle-only permits on allotments where bison or a combination of cattle and/or bison were previously authorized on the terms and conditions herein ensures that the BLM is acting within the limits of its statutory authority. Specifically, it is my proposed decision to:

1. Cancel permits that currently authorize bison on the following allotments: Telegraph Creek (allotment #05654) and Box Elder (allotment #15634).
2. Cancel permits that currently authorize cattle and/or bison on the following allotments: Flat Creek (allotment #15439), Whiterock Coulee (allotment #15417), French Coulee (allotment #05616), and Garey Coulee (allotment #05447).
3. Issue cattle-only grazing permits based on the terms and conditions herein and according to the tables presented below, for the following allotments: Flat Creek (allotment #15439), Whiterock Coulee (allotment #15417), French Coulee (allotment #05616), Garey Coulee (allotment #05447), Box Elder (allotment #15634) and Telegraph Creek (allotment #05654).
4. Issue no changes to the current cattle-only grazing permits for East Dry Fork consistent with the table presented below (allotment #05617).

Telegraph Creek Allotment 05654 (Authorization # 2501506)

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	2	I ⁵	3/1	2/28	100	17
	112	I	3/1	2/28	100	1,344
New	2	C ⁶	3/1	2/28	100	17
	112	C	3/1	2/28	100	1,344

⁵ I denotes the species of authorized domestic livestock as indigenous (bison).

⁶ C denotes the species of authorized domestic livestock as cattle.

Box Elder Allotment 15634 (Authorization # 2500017)

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	235	I	3/1	2/28	41	1,158
New	235	C	3/1	2/28	41	1,158

Flat Creek Allotment 15439 (Authorization # 2504616)

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	2	C/I ⁷	3/1	2/28	100	21
	203	C/I	4/1	9/30	100	1,222
New	2	C	3/1	2/28	100	21
	203	C	4/1	9/30	100	1,222

Whiterock Coulee Allotment 15417 (Authorization # 2500511)

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	16	C/I	3/1	2/28	100	193
	418	C/I	4/1	9/30	74	1,862
New	16	C	3/1	2/28	100	193
	418	C	4/1	9/30	74	1,862

French Coulee Allotment 05616 (Authorization # 2500276)

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	1	C/I	3/1	2/28	100	7
New	1	C	3/1	2/28	100	7

⁷ C/I denotes the species of authorized domestic livestock as cattle and/or indigenous (bison).

Garey Coulee Allotment 05447 (Authorization # 2500611)

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	3	C/I	3/1	2/28	100	40
	74	C/I	5/1	11/30	100	521
New	3	C	3/1	2/28	100	40
	74	C	5/1	11/30	100	521

East Dry Fork Allotment 05617 (Authorization # 2500276)

Authorization	# of Livestock	Kind of Livestock	Begin Date	End Date	% Public Land	BLM AUMs
Current	225	C	5/1	11/30	100	1,584

TERMS AND CONDITIONS/STIPULATIONS

In addition to the Standard Terms and Conditions found on all grazing permits, the following Terms and Conditions would apply to all allotments subject to this decision and related Cooperative Range Improvement Agreements, as appropriate:

1. A *Livestock Control Agreement* or *Pasturing Agreement* must be filed with the authorized officer and approval received prior to any grazing use for livestock which graze the public lands that are being leased or are not owned by the permittee or lessee (43 CFR 4130.7(d)).
2. In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements must be located at least 0.25 mile from water located on public land (any riparian area, wet meadow, or watering facility) (43 CFR 4130.3-2(c)).
3. Numbers of livestock may vary within the permitted season of use as long as the total permitted AUMs are not exceeded (HiLine RMP; BLM 2015a).
4. An Actual Livestock Grazing Use Report must be submitted to the Malta BLM Office within 15 days after livestock are removed from the Allotment(s).
5. All range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple use management, and as agreed to in a Cooperative Range Improvement Agreement (43 CFR 4120.3-l(a)) and contingent upon site-specific cultural resource inventory results.
6. All water developments and tanks will include functional wildlife escape ramps.
7. Per Appendix B of the HiLine RMP (BLM 2015a), all fences within 1.2 miles of Greater Sage-Grouse leks should be marked to decrease the chance of Greater Sage-Grouse collisions.

8. The authorized officer may modify terms and conditions of the permit or lease when the grazing use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or are not in conformance with the provisions of subpart 43 CFR 4180 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.
9. Failure to pay grazing bills within 15 days of the due date specified in the bill shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, but not to exceed \$250.00. Payment made later than 15 days after the due date shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR 4140. l(b)(l) and shall result in action by the authorized officer under 43 CFR 4150.1 and 4160.1-2 (43 CFR 4130.8-l(f)).
10. All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease (43 CFR 4130.3-l(b)).
11. If on-the-ground monitoring determines that livestock grazing has prevented suitable habitat conditions for Greater Sage-Grouse on more than half of three or more than three key monitoring sites within an allotment, livestock numbers will be reduced by 10 percent. They may be reduced another 10 percent the following year if habitat conditions remain unimproved. Livestock numbers would only be restored to full numbers when a management action plan is in place to correct the reason(s) for the failure. Desired Conditions for Greater Sage-Grouse Habitat are found in Table 2.3-2 of the HiLine RMP.
12. Range improvement projects will be constructed, maintained, modified, and reconstructed in accordance with approved Cooperative Range Improvement Agreements established prior to implementation.
13. To ensure adequate public vehicular access, gates and/or cattleguards will be installed in fences on every publicly accessible road or trail. Additional gates will be installed along fences where access is recommended by the BLM. As a general rule, at least one gate will be installed every 0.50 mile and in sharp angle corners. The Permittee will be required to install additional gates, stiles, or fence ladders where additional public access may be needed in order to ensure public safety.
14. For all Active Use allotments, The Permittee has the flexibility to apply to turn out earlier or stay later up to 14 days on the allotment provided AUMs allocated are not exceeded. The application must be submitted to the BLM before the grazing use occurs, reviewed by BLM specialists and approved by the authorized officer.
15. Grazing use will be in accordance with the Final Decision for all allotments.

AUTHORITY

The following sections of the Code of Federal Regulations, Chapter 43, authorize the actions proposed in this grazing decision. The language of the cited sections can be found at a library designated as a federal depository or at the following web address:
<https://www.govinfo.gov/content/pkg/CFR-2005-title43-vol2/pdf/CFR-2005-title43-vol2-part4100.pdf>

- § 4100 Grazing Administration – Exclusive of Alaska; General
- § 4100.0-2 Objectives
- § 4100.0-3 Authority
- § 4100.0-8 Land use plans
- § 4110.1 Mandatory Qualifications
- § 4110.2 Grazing preference
- § 4110.2-2 Specifying grazing preference
- § 4120.2 Allotment Management Plans
- § 4120.3-1 Conditions for Range Improvements
- § 4120.3-2 Cooperative Range Improvement Agreements
- § 4120.3-4 Standards, Design, and Stipulations
- § 4130.1-1 Filing Applications
- § 4130.2 Grazing Permits or Leases
- § 4130.3 Terms and Conditions
- § 4130.3-1 Mandatory Terms and Conditions
- § 4130.3-2 Other Terms and Conditions
- § 4160.1 Proposed decisions
- § 4160.2 Protests
- § 4160.3 Final decisions
- § 4160.4 Appeals
- § 4180.1 Fundamentals of rangeland health
- § 4180.2 Standards and guidelines for grazing administration

RIGHT OF PROTEST AND/OR APPEAL

RIGHT OF PROTEST: Any applicant, permittee, lessee, or other interested public may protest this proposed decision under 43 CFR 4160.1 and 4160.2, in person or in writing to:

Sonya Germann, State Director
Montana/Dakotas BLM State Office
5001 Southgate Drive
Billings, MT 59101

within 15 days after the receipt of this decision. The protest, if filed, should clearly and concisely state the reasons why the proposed decision is in error. The BLM will only accept a protest that is filed in hard copy; the BLM will not accept an electronically transmitted (e.g., email, facsimile, or social media) protest. The BLM cannot accept filing of electronic protest documents (e.g., compact discs, DVDs, thumb drives, etc.) due to the Federal Information Systems Security Awareness guidance. A protest must be printed or typed on paper and submitted in person or by mail. In the absence of a protest, the proposed decision may be finalized by subsequent action of the authorized officer as the final decision without further notice. In accordance with 43 CFR 4160.3(b), upon a timely filing of a protest, after a review of protests received and other information pertinent to the case, the authorized officer may issue a final decision. The BLM would provide ample time in any final decision that cancels permits for bison grazing to allow for the orderly removal of bison from BLM-managed lands.

APPEAL PROCEDURES: Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may appeal the decision to an administrative law judge in accordance with 43 CFR 4160.3(c), 4160.4, and 4.170. Any notice of appeal must be filed with the DCHD and must include a copy of the decision or proposed decision being appealed, a statement of standing, a statement of timeliness, and a statement that clearly and concisely states the reasons why the appellant believes the BLM grazing decision is incorrect. The statement must contain specific factual allegations related to the BLM grazing decision being appealed and a summary of the applicable legal arguments. If you wish to file a petition for a stay of the effectiveness of the final decision during the time that your appeal is being reviewed, the petition for a stay must meet the criteria at 43 CFR 4.171.

The appellant must serve a copy of the notice of appeal and any accompanying documents on the office of the officer who made the decision; each person or entity named in the decision, and the appropriate Office of the Solicitor at the same time you file them with DCHD (see 43 CFR 4.170 (c)). Parties must serve the Office of the Solicitor as specified in the OHA Standing Orders on Contact Information (<https://www.doi.gov/oha/oha-standing-orders>). Service on a party known to be represented by an attorney or other designated representative must be made on the representative.

If you have any questions or need additional information, please contact Brittany Jones, Supervisory Public Affairs Specialist, at bejones@blm.gov.

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