



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 4140.1(b)(1) and shall result in action by the authorized officer under 43 CFR 4150.1 and 4160.1-2 (43 CFR 4130.8-1(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 4130.3-1(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.

**SONYA
GERMANN**
Sonya I. Germann
State Director
Montana/Dakotas BLM

Digitally signed by
SONYA GERMANN
Date: 2026.01.16
11:47:36 -07'00'

Christy Mack
Montana Dept. of Fish, Wildlife & Parks
PO Box 200701
Helena, MT 59620

Badland State Grazing District
PO Box 422
Glasgow, MT 59230

George Alden
24 East Alden Rd
Larslan, MT 59244

Matt Alford
39360 SW LAURELWOOD RD
Gaston, OR 97119

Jan Allen
402 Agate Dr
Lewistown, MT 59457

Stephenie Ambrose Tubbs
900 University
Helena, MT 59601

Chamois Andersen
c/o Defenders of Wildlife
205 S. D Street
Livingston, MT 82070

Pat Anderson
2429 East Whitewater Rd.
Whitewater, MT 59544

Buggy Creek State Grazing District
PO Box 422
Glasgow, MT 59230

Patricia Annala
c/o Kibby Cattle Company
Box 202
Raynesford, MT 59469

Matthew Annala Hill Livestock Company
Box 228
Raynesford, MT 59469

John Arnold
266 Snake Creek Road
Hinsdale, MT 59241

Billie Lou Arnott
948 Highland Rd
Hobson, MT 59452

John Ascheman
30 Delger Rd
Townsend, MT 59644

Dave Ashley
625 2nd Street
Helena, MT 59601

Kent Atwood
4 Ridgewood Ct
Clancy, MT 59634

Damien Austin
P.O. Box 908
Bozeman, MT 59771

Adela Awner
1109 DELPHINIUM DR
Billings, MT 59102

Brett Badgett
151 Palisades Blvd. Apt 309
Miles City, MT 59301

Louis Bahin
3330 Old Pond Road
Missoula, MT 59802

Mardrie Baker
Box 367
Jordan, MT 59337

North/South Phillips State Grazing
District
PO Box 189
Malta, MT 59538

Karyl Barnes
219 2nd Ave. N.
Glasgow, MT 59230

Melissa Barnette
21 Wilson Avenue Northwest
Leesburg, DC 20176

Leo Barthelmess
27288 Content Rd.
Malta, MT 59538

Dale Bartley
2856 Cacatua Street
Carlsbad, CA 92009

Dennis Bebee
PO Box 455
Malta, MT 59538

Daniel & Nancy Belk
PO Box 152
WINNETT, MT 59087

Robert Bellandi
232 Oarlock Cir. E.
Syracuse, NY 13057

William Berg
408 Agate Drive
Lewistown, MT 59457

Peggy Bergsagel
5247 Telegraph Rd.
Malta, MT 59538

Aubrey Bertram
c/o Wild Montana
80 S. Warren St.
Helena, MT 59601

Tony Bibeau
3190 7th St
Havre, MT 59501

Jack Billingsley
PO Box 768
Glasgow, MT 59230

Brian and Sarah Birchler
6916 Houston
St Buena Park, CA 90620

Norman Bishop
4898 Itana Circle
Bozeman, MT 59715

Roseann Blacher
4562 Hunting Hound Lane
Marietta, GA 30062

Diane Black
c/o McCone Conservation District
PO Box 276
Circle, MT 59215

Alan Blakeley
705 N West St
Warsaw, IN 46580

Troy Blunt
29286 Regina Rd.
Malta, MT 59538

Jesse Blunt
c/o Phillips County Livestock Association
PO Box 430
Malta, MT 59538

Jay Bodner
c/o Montana Stockgrowers Association
420 N. California Street
Helena, MT 59601

REX BOLLER
PO BOX 771
LAKESIDE, MT 59922

Dan and Laura Boyce
18422 Bear Springs
Winifred, MT 59489

Andy Boyce
c/o Smithsonian Conservation Biology
Institute National Zoological Park
1500 Remount Rd
Front Royal, VA 22630

Benjamin Bradley
73 Konley Drive
Kalispell, MT 59901

Dorothy Bradley
PO Box 316
Clyde Park, MT 59018

Carol & John Brenden
PO Box 970
Scobey, MT 59263

Jim Brenna
296 S Dell
Havre, MT 59501

Paul A. Brewer
516 West Main Street
Toledo, IL 62468

Richard Britzman
PO Box 52
Glasgow, MT 59230

Eric Brown
1268 Pioneer Lane
Gentry, AR 72734

Edward B. Butcher
7550 Butcher Road
Winifred, MT 59489

Pam Butcher
Box 89
Winifred, MT 59489

Barbara Butzer
3670 Wisper Lane SE
Salem, OR 97317

James Cameron
606 Hiawassee Ave
Black Mountain, NC 28711

Mike Carlson
112 1st Street
Glendive, MT 59330

Bill Chalgren
PO Box 583
Libby, MT 59923

Bruce Christofferson
599 Swedes Square
Malta, MT 59538

Patricia Cohen
4655 GOODAN LN
Missoula, MT 59808

Sandy Cold Shapero
Box 620431
Woodside, CA 94062

Stephen Cook
3134 SW Evergreen Lane
Portland, OR 97205

Richard Cordell
PO Box 1032
Kalispell, MT 59903

Harry Cosgriffe
2261 Quail Valley Drive
Prineville, OR 97754

Clinton Cox
10498 North Frenchman Road
Whitewater, MT 59544

Don Cox
1311 Waukesha Ave
Helena, MT 59601

William Cramer
743 Brookdale Dr.
Bozeman, MT 59715

Richard O. Dale
PO Box 1570
Malta, MT 59538

Kevin Dawe
c/o Sweet Grass County Conservation
District
PO Box 749
Big Timber, MT 59011

Hal J. DeBoer
PO Box 728
Malta, MT 59538

Margaret and Jay Ann Demarais
7607 Emond Road
Malta, MT 59538

United Property Owners of Montana
Denowh/Robbins
PO Box 247
Roy, MT 59471

Tom and Joy Depuydt
c/o Phillips County Farm Bureau
PO Box 338
Saco, MT 59261

Diann DeRosier
227 Snowy Mountain Dr.
Lewistown, MT 59457

Margaret Dillon
PO Box 1043
LITCHFIELD, CT 06759

Paul Dinkins
2122 Boylan Rd
Bozeman, MT 59715

Diane Dirkson
3065 Porter St. NW
Washington, DC 20008

Andrew Dreelin
1307 West Lincoln Hwy
DeKalb, IL 60115

Vicki W. Dunaway
c/o Buffalo Creek Cooperative State
Grazing District
1250 15th St W STE 202
Billings, MT 59102

Shirley Dunbar
3928 North Whitewater Rd.
Whitewater, MT 59544

Noel Emond
PO Box 1371
Malta, MT 59538

Brian and Vicki Eggebrecht
8270 US Hwy 191 South
Malta, MT 59538

Vandalia Ranch Inc.
Eliot Strommen -President
PO Box 1
Vandalia, MT 59273

Joshua Elliott
735 N 5th St W
Missoula, MT 59802

Erik Engebretson
Box 202
Malta ,MT 59538

William, Dave& Linda Ensign
13255 Rainbow Drive
Bigfork, MT 59911

Larry Epstein
237 Izaak Walton Inn Rd
Essex, MT 59916

Nancy Ereaux
24090 Content Rd.
Malta, MT 59538

Mitch Ereaux
621 25th Ave NE
Great Falls, MT 59404

Michael Fred Ereaux
c/o Montana Community Preservation
Alliance
PO Box 1015
Malta, MT 59538

John Fahlgren
c/o Valley County Board of Commissioners
501 Court Square #1
Glasgow, MT 59230

Jerome Faith
PO Box 455
Vaughn, MT 59487

Janet Talcott
3553 Bundy Road
Worden, MT 59088

Kevin Farron
2615 Argenta Court
Missoula ,MT 59808

Patricia Fauth
116 Mf Ln
Opheim, MT 59250

Doug & Jill Flament
PO Box 1082
Lewistown, MT 59457

Steve Forrest
12046 Rainbow Drive
Truckee, CA 96161

Erica Freese
3751 E Flower St
Tucson, AZ 85716

William R. and Lela French
37737 Content Rd.
Malta, MT 59538

Jessica French
402 Jobe Lane
Challis, ID 83226

Craig R. & Conni French
8861 Sun Prairie Road
Malta, MT 59538

Taylor French
39350 Content Road
Malta, MT 59538

Mark French
364 Knudsen Dr
Malta, MT 59538

Rona Fried
231 West Pulaski Rd
Huntington Station, NY 11746

Dwayne Garner
2120 Tipperary Way
Missoula, MT 59808

Ronald Garwood
72 Garwood Rd
Nashua, MT 59248

Pete Geddes
c/o American Prairie
P.O. Box 908
Bozeman, MT 59771

Fred & Glena Gillett
c/o Gillett Livestock
PO Box 173
Winnett, MT 59087

Shirlee Glade
PO Box 1998
Thompson Falls, MT 59873

Melva M. Glouzek
15 Riverview Drive
Thompson Falls, MT 59873

Mark Good
917 3rd Ave South
Great Falls, MT 59405

David Green
c/o Amy H & RR Nielsen Revocable
Family Trust
100 N. Davis Street
Belgrade, MT 59714

Jeanie Green
5046 Loring Cutacross Road
Whitewater, MT 59544

Joe Griffin
1121 W. Diamond
Butte, MT 59701

Al & Pat Irish
515 8th Ave W
Roundup, MT 59072

Paul Grove
PO Box 370
Eureka, MT 59917

Clinton Grue
P.O. Box 216
TERRY, MT 59349

Cara Gwalthney
3540 Rain Forest Dr W
Jacksonville, FL 32277

Barbara Hagofsky
498 East High Street
Kittanning, PA 16201

Steve & Debbie Hale
558 Hale Lane
Mosby, MT 59058

Alisa Hale
305 Hylande DR
Great Falls, MT 59405

Mark and Sarah Haliaferro
614 Ranch Access S
Wibaux, MT 59353

Ann Halverson
1312 Babcock Apt. C
Bozeman, MT 59715

Vic and Leigh Hansen
2781 Hwy 323
Ekalaka, MT 59324

Montana Farm Bureau Federation
502 S. 19th Ave. Suite 104
Bozeman, MT 59718

Judy Harris
PO Box 98
Lakeside, MT 59922

Michael Harrison
24 Cervens Road
Tolland, CT 06084

Eileen Hastad
1423 23rd Avenue South
Moorhead, MN 56560

Gary W. Hawk
5860 Kerr Dr.
Missoula, MT 59803

Michael Hayes
19272 Black Butte Rd
Lewistown, MT 59457

Travis Heater
9 Sunny Shore Dr
Trout Creek, MT 59874

Patrick K.Hickey
817 Strater Road East
Malta, MT 59538

Pam Higgins
1140 Yuri Road
Helena, MT 59602

Bridgar & Jessica Hill
1124 West Park Street #10
Livingston, MT 59047

Dave & Yvonne Hinman
PO Box 220
Malta, MT 59538

Glenn Hockett
745 Doane Rd
Bozeman, MT 59718

Mari Hoffmann
P.O. Box 704
Missoula, MT 59801

Stan & Betty Holder
PO Box 717 281
Eureka, MT 59917

Michael Honeycutt
c/o Montana Department of Livestock
301 N. Roberts
Helena, MT 59601

Raylee Honeycutt
c/o Montana Association of State Grazing
Districts, Montana Public Lands Council
420 N California St
Helena, MT 59601

Don Hook
324 Hastings Rd
Sand Coulee, MT 59472

Cheryl Hren
c/o Hren Ranches Inc.
PO Box 948
Dillon, MT 59725

Harold Hunter
1755 Moffit Gulch Road
Bozeman, MT 59715

Reece, Linda and Miles Hutton
c/o Hutton Ranch
PO Box 144
Turner, MT 59542

ANNEMARIE IRISH
942 AVE C. APT 2
BILLINGS, MT 59102

Lee Iverson
c/o Chain Buttes State Grazing District
PO Box 151
Winnett, MT 59087

David Jachowski
258 Lehotsky Hall
Clemson University
Clemson, SC 29634

Perri Jacobs
21436 Dry Fork Road
Malta, MT 59538

Marvin Jacobson
105 13th St
Circle, MT 59215

Doug James
1570 Westridge Circle
Billings, MT 59102

Cort Jensen
c/o State of Montana Department of
Agriculture
302 North Roberts
Helena, MT 59602

LARRY JESS
40007 ROAD 60 S.
HAVRE, MT 59501

Keith Johnson
P.O. Box 186
Fortune, MT 59918

Mark Johnstad
PO Box 981
EMIGRANT, MT 59027

Jack Jones
3014 Irene Street
Butte, MT 59701

Michael Jorgenson
2183 Swan Hwy
Bigfork, MT 59911

Ronald Joseph
9 Wild Duck Drive
Sidney, ME 4330

Isaac Kantor
3130 Pattee Canyon Road
Missoula, MT 59803

Chester and Terrie Kallem
PO Box 104
Ulm, MT 59485

Douglas Kary
1943 Lake Hills Drive
Billings, MT 59105

Loyal Kauffman
PO Box 1101
Glasgow, MT 59230

Ted and Norma Kelly
PO Box 773
MALTA, MT 59538

Greg and Claudette Kielb
PO Box 1073
Malta, MT 59538

Millie Kindle
4172 Bowdoin Rd.
Malta, MT 59538

Bryan Kindle
7361 Bowdoin Road
Malta, MT 59538

Michael King
209 5th Avenue
Helena, MT 59601

Chris King
PO Box 187
Winnett, MT 59087

Jay King
c/o Petroleum County Conservation District
P.O. Box 118
Winnett, MT 59087-0118

Daniel Kinka
816 West 4th Street
Anaconda, MT 59711

Dan Kluck
4385 Kluck Road
Malta, MT 59538

Karla Knox
3671 Woodhawk Rd.
Winifred, MT 59489

Carolyn Knox
PO Box 387
Denton, MT 59430

Austin Knudsen
c/o Montana Department of Justice
PO Box 201401
Helena, MT 59620-1401

Vondene Kopetski
7373 Stonehaven Avenue
Missoula, MT 59803

Ron and Maxine Korman
PO Box 162
Hinsdale, MT 59241

Terry Korman
PO Box 72
Saco, MT 59261

Kevin and Brenda Koss
c/o Phillips County Commission
10341 Larb Hills Road
Malta, MT 59538

John Lacey, PhD
PO Box 534
Glasgow, MT 59230

LaMae Lacock
PO Box 188
Hinsdale, MT 59241

Sherman Lacock
PO Box 134
Hinsdale, MT 59241

Steven Lacock
PO Box 188
Hinsdale, MT 59241

Mike Lang
PO Box 104
MALTA, MT 59538

Carol and Leah LaTray
10889 Winifred Hwy
Hilger, MT 59451

Camille LaTray
610 S 44th St. #6306
Billings, MT 59106

Griffin Lawrence
509 S Black Ave
Bozeman, MT 59715

Bethany Legare
PO Box 1086
Wolf Point, MT 59201

Patrick Kelly
c/o Western Watersheds Project
PO Box 8837
MISSOULA, MT 59807

Gordon Levin
6200 Copper Rose Drive
Helena, MT 59602

Ralph Lewis
10990 Highway 11
Birchdale, MN 56623

Roxann Lincoln
1003 9th Ave.
Helena, MT 59601

Karen Linford
PO Box 1430
Seeley Lake, MT 59868

Dennis Linneman
12880 Triple L Lane
Lolo, MT 59847

Patrick Lupton
751 Professional Drive Apt 71
Bozeman, MT 59718

Hal Luttschwager
1106 Ronald Avenue
MISSOULA, MT 59801

Maralyn Lytle
PO Box 4148
Helena, MT 59604

Elizabeth Madden
408 Overbrook Drive
Bozeman, MT 59715

R.D. Marks
PO Box 1592
Ennis, MT 59729

Blaine Martin
241 Blazer Tr
Bozeman, MT 59718

Anne Martinez
80 Gannon Drive
Great Falls, MT 59404

David Marx
PO Box 4241
Whitefish, MT 59937

Molly Masters
c/o Missouri River Conservation Districts
Council
PO Box 118
Winnett, MT 59087

Larry L. Maurer
2390 26th Lane NE
Brady, MT 59416

Donald W. McAndrew
205 James Ave.
Bozeman, MT 59715

Patrick McGuffin
250 Ulm Vaughn Rd
Great Falls, MT 59404-6313

Joan McKeown
393 B Hickory Street
St. Marie, MT 59231

Keith Menasco
14079 N 90th Dr
Peoria, AZ 85381

Loretta Menge
PO Box 48
Saco, MT 59261

Darrell Menge
6 Beaverton Main St.
Saco, MT 59261

Jacqueline Mercenier
1333 Ancient Trail
Forest Grove, MT 59441

Diane Merrick
238 Mayo Avenue
Vallejo, CA 94590

Levi and Shilo Messerly
c/o Messerly Angus Ranch
345 Edgewater Lane
Malta, MT 59538

John Meyer
c/o Cottonwood Environmental Law Center
P.O. Box 412
Bozeman, MT 59771

Jay Meyer
3652 Meyer Lane
Stevensville, MT 59870

Rick Miller
PO Box 65
Moore, MT 59464

Rick Miller
312 E. Lake Ave.
Lewistown, MT 59457

William and Ruth Mitchell
4787 Mitchell Road
Dodson, MT 59524

June Molgaard
1204 West Alderson Street
Bozeman, MT 59715

Mark Momberg
4615 Equestrian Lane
Bozeman, MT 59718

Glenn Monahan
420 North 10th Avenue
Bozeman, MT 59715

Margaret Morgan
1370 Bitterroot Rd
Helena, MT 59602

Anna Morris
111 East Blvd
Lewistown, MT 59457

Mikayla Moss
c/o Friends of the Missouri River Breaks
Monument
PO Box 1932
Helena, MT 59624

James Murdock
7179 North Whitewater Road
Whitewater, MT 59544

Clinton Nagel
c/o Gallatin Wildlife Association
PO Box 5317
Bozeman, MT 59717

Duane Nelson
922 Union Rd
Circle, MT 59215

David Nolt
907 West Chinook Street
Livingston, MT 59047

Gary Oakley
21 Camino Quien Sabe
Santa Fe, NM 87505

David Oakley
6606 South Boulder Road
Boulder, CO 80303

Sonny Obrecht
PO Box 156
Turner, MT 59542

Darrell and Vicki Olson
24114 Content Road
Malta, MT 59538

Jason & Whitney Olson
PO Box 67
Lolo, MT 59847

Kathleen O'Neal Gear
c/o Red Canyon Buffalo Ranch
PO Box 1329
Thermopolis, WY 82443

Greg and Jenny Oxarart
27623 Regina Rd.
Malta, MT 59538

Paul Pacini
303 State Street
Helena, MT 59601-5788

Bronte Page
33 Oak Tree Court
Murphys, CA 95247

Debra Pankratz
PO Box 1115
Malta, MT 59538

Carolyn Pardini
1002 15th Ave E
Polson, MT 59860

Jim Parker
212 Bedford Street
Hamilton, MT 59840

Mark Pearson
2942 Lily Drive
Bozeman, MT 59718

Ron Peortner
c/o Missouri River Stewards
PO Box 45
Winifred, MT 59489

Elizabeth Perkins
355 Matterhorn Dr
Rapid City, SD 57702

Joe Perry
4125 Circle S. Road
Brady, MT 59416

Roger & Robin Peters
PO Box 8
Roy, MT 59457

Marshall Pierce
21280 Nine Mile Rd
Huson, MT 59846

Jerry Pierce
7148 McGinnis Meadows Road
Libby, MT 59923

Wanda Pinnow
PO Box 39
Baker, MT 59313

David Pippin
158 Heather Lane
Glasgow, MT 59230

Don Pyrah
c/o Department Natural Resources and
Conservation
PO Box 1007
Glasgow, MT 59230

Fred Potter
933 5th Avenue South
Glasgow, MT 59230

Pat Povah
PO Box 924
West Yellowstone, MT 59758

Dwain "Fritz" Prellwitz
PO Box 1408
Malta, MT 59538

Melisa Presley
802 Pine St Lot 11
Warner Robins, GA 31093

Katheryn Qanna Yahu
513 ½ W. Curtiss St.
Bozeman, MT 59715

Chris Raber
4585 Jack Rd
Chambersburg, PA 17202

Ellison Ranch
1825 Swingley Rd
McLeod, MT 59052

Alan Redfield
538 Mill Creek Rd
Livingston, MT 59047

Kay J. Reilly
1201 Highland Blvd. Apt B-303
Bozeman, MT 59715

Erik Renna
131 Candle Lane
Bozeman, MT 59715

Rob Reukauf
PO Box 546
Terry, MT 59349

Chris Rich
18910 8TH AVE NW, #323
Shoreline, WA 98177

Gail and John Richardson
5263 Cimmeron Drive
Bozeman, MT 59715

John Rizzi
220 W 5th Street
Winnemucca, NV 89445

Jim Robinson
c/o Mill Iron Ranch Co.
PO Box 1381
Malta, MT 59538

Rachel Rockafellow, RN
1202 S. Spruce Dr
Bozeman, MT 59715

Brent Roeder
c/o Montana Wool Growers Association
PO Box 1693
Helena, MT 59624

John Rollyson
PO Box 53
Roy, MT 59471

Chad, Madison, Molly, Riggs &
Michelle Rotenberger
13003 Welch Fire Pl
Lundow, SD 57755

Alex Russell
210 S 8th St
Livingston, MT 59047

Kenneth Ruzicka
PO Box 1313
Malta, MT 59538

Russ Saffian
14137 Pine St
Bigfork, MT 59911

Greg and Ruth Salveson
6078 Kid Curry Rd.
Malta, MT 59538

Wesley & Carmen Salveson
7875 Hwy 363
Malta, MT 59538

Craig Salzman
3412 Windmill Circle
Billings, MT 59102

Michael Saucy
527 Mission Boulevard
Santa Rosa, CA 95409

Justin Schaaf
908 3rd Ave South
Glasgow, MT 59230

Paul Scharping
22406 107th Street Court
East Buckley, WA 98321

Mike Schuldt
c/o Southeast Montana Livestock
Association
2705 Sudlow
Miles City, MT 59301

Cheryl M. Schuldt
c/o North Blaine County Cooperative State
Grazing District
PO Box 153
Miles City, MT 59301

John Schultz
PO Box 219
Grass Range, MT 59032

Nate Schweber
29 S. 3rd Street Apt. 3B
Brooklyn, NY 11249

Nate Schweber
510 West Mountain View
Missoula, MT 59802

Montana Audubon
324 Fuller Ave Ste N5
Helena, MT 59601

Nathan Sears
735 Crab Orchard Ct
Roswell, GA 30076

F. E. Seel
PO Box 334
Malta, MT 59538

Richard Seitz
405 N Montana Ave
Helena, MT 59601

Cindy Selensky
PO Box 137
Big Timber, MT 59011

Menno Sennesael
6316 W Greenwood Rd
Spokane, WA 99224

Gaylord Sherwood
600 6th Street
Eureka, MT 59917

Marlene Sigman
P.O. Box #4
Ringoes, NJ 8551

Doug Simanton
PO Box 95
Malta, MT 59538

Patricia Simmons
357 Pine Creek Drive
Bozeman, MT 59718

Theresa Slattery
c/o Budd-Falen Law Offices
PO Box 346
Cheyenne, WY 82003

Mickey Smith
634 Rollins St
Missoula, MT 59801

Bernadette Smith
PO Box 68
Pryor, MT 59066

Susan Snyder
752 20th Rd. NW
Choteau, MT 59422

Orvin Solberg
PO Box 656
Malta, MT 59538

Sue Solberg
PO BOX 1192
Malta, MT 59538

Richard Spotts
255 N 2790 E
Saint George, UT 84790

Michele Stenglein
PO Box 12
Opheim, MT 59250

John Stephenson-Love
300 Southridge Ct
Great Falls, MT 59404

Dan Stevenson
1960 Survant Road
Malta, MT 59538

Donald Stevenson
4528 Edward Ave
Missoula, MT 59804

James Stilwell
3015 Nettie Street
Butte, MT 59701

Gilles Stockton
c/o Montana Cattlemen's Association
P.O. Box 536
Vaughn, MT 59487

Ron and Rose Stoneberg
PO Box 37
Hinsdale, MT 59241

Greg and Alanna Strong
320 Minnesota Ave
Whitefish, MT 59937

Pat Stud
515 8th Ave W
Roundup, MT 59072

Carl Stude
706 Perry Ridge
Carbondale, CO 81623

Sharon Studt
25766 Oak Haven Court
West Harrison, IN 47060

Anne Sturm
P.O. Box 341
Barnesville, MD 20838

Patrick Swanson
8717 Capitol Avenue
Omaha, NE 68114

Leonard Swenson
49 Riverside Dr.
Glasgow, MT 59230

Trace Sweeney
131 West Manor Drive
Lewistown, MT 59457

Leonard Swenson
c/o Wittmayer-Silver Dollar Grazing
Association
PO Box 1168
Glasgow, MT 59230

Christopher Tassava
1716 Sunset Drive
Northfield, MN 55057

Warren and Lori Taylor
25208 US Hwy 191 S.
Malta, MT 59538

Vivian Taylor
7729 Larb Creek Road
Saco, MT 59261

Dennis Teske
PO Box 687
Terry, MT 59349

Joshua Theurer
309 S F St
Livingston, MT 59047

Amanda Kaster
c/o Montana Department of Natural
Resources & Conser.
1539 Eleventh Ave
Helena, MT

Denise Thompson
c/o Broadwater Conservation District
415 South Front Street
Townsend, MT 59644

Robert W Thompson
PO Box 97
Whitlash, MT 59545

Ron Tibbetts
c/o MT Grass Conservation Commission;
Prairie County State Grazing District
PO Box 622
Terry, MT 59349

Troy Tripp
225 Walnut St
Bremen, OH 43107

Gerald Tulley
PO Box 175
Saco, MT 59261

Jason and Jamie Ulrich
PO Box 1137
Malta, MT 59538

Rudy Urban
830 McMannamy Draw
Kalispell, MT 59901

Dyrck Van Hying
6835 43 St. S.W.
Great Falls, MT 59404

Mary VanBuskirk
1020 Park Ave.
Whitefish, MT 59937

Catherine Vandemoer
c/o Montana Land and Water Alliance
PO 1061
Polson, MT 59860

Alan Vanek
726 Warm Spring Lane
Lewistown, MT 59457

Jim Vashro
1837 STAG LANE
KALISPELL, MT 59901

Dale Veseth
22787 Midale Road
Malta, MT 59538

Alan Van Voast
PO Box 72
Turner, MT 59542

Gladys Walling
PO Box 55
Winifred, MT 59489

Charles Wambeke
PO BOX 863
Three Forks, MT 59752

John H Warner
421 Knapstad Rd
Sun River, MT 59483

Tim Warner
796 Stonegate Drive
Bozeman, MT 59715

Paul & Kayla Warren
PO Box 1732
Malta, MT 59538

Darrell & Sandra Watkins
3488 Cora Creek Rd
PO Box 223
RAYNESFORD, MT 59469-0223

Ron Wehr
245 Furnell
Whitlash, MT 59545

K.C. and Teri Weingart
c/o Swinging H Cattle Company
PO Box 129
Winnett, MT 59087

George Weurthner
PO Box 8359
Bend, OR 97708

Gordon Whirry
1912 4th Avenue North
Great Falls, MT 59401

Clint and Cathy Whitney
c/o Indian Butte Cooperative State Grazing
District
73530 Hwy. 191 North
Roy, MT 59471

John Wiese
1450 Short Oil Rd
MALTA, MT 59538

Kenneth Wilcox
1209 T St. #3
Sacramento, CA 95811

Farris Wilks
52 Headquarters Loop
Grass Range, MT 59032

David Willams
2731 Princeton St
Butte, MT 59701

Cynthia Willson
2014 Evans Ave
Cheyenne, WY 82001

Jerry & Dawn Wilson
P.O. Box 1272
Malta, MT 59538

Eric & Delsi Witmer
5319 Kid Curry Rd
Malta, MT 59538

Don Woerner, DVM
1226 Allendale Road
Laurel, MT 59044

Brandon Wold
1425 Old Town Road
Three Forks, MT 59752

Twila Wolfe
3003 Altura Drive
Missoula, MT 59802

Raymond Yarrow
51975 LOST ELK LANE
CHARLO, MT 59824

Kay Roub Younkin
616 Billingsley Road
Glasgow, MT 59230

Corey Zadik
185 LAKE FOREST DR
ACWORTH, GA 30102

Tina Zenzola
26382 Red Owl Trail
Bigfork, MT 59911

Montana Association of Conservation
Districts
1101 11th Avenue
Helena, MT 59601

Phillips Conservation District
1120 Hwy 191 S. Ste 2
Malta, MT 59538

C & B Cooperative State Grazing District
980 Highway 323
Ekalaka, MT 59324

Phillips County Commission
PO Box 360
Malta, MT 59538

Flathead Wildlife, Inc.
PO Box 4
Kalispell, MT 59903

North Valley Cooperative State Grazing
District
PO Box 422
Glasgow, MT 59230

First Creek Ranch Inc.
PO Box 48
Saco, MT 59261

Penelope Mackey
982 Kjos Rd
Malta, MT 59538

Mike Fauth
110 MF Lane
Opheim, MT 59250

Jeff Neubauer
6918 NB Loop
Wolf Point, MT 59201

Darlene Kolczak
1818 Landusky Rd
Zortman, MT 59546

Linda Lien
1906 Camden Dr
Billings, MT 59102

Dan Duncan
PO Box 694
Malta, MT 59538

Kyle Mitchell
4787 Mitchell RD
Dodson, MT 59524

Marcella McEwen
PO Box 538
Malta, MT 59538

Sally M Austin
c/o Harry Austin Limited Partnership
PO Box 22
Whitewater, MT 59544

Scott Cassel
PO Box 772
Glasgow, MT 59230

Robert Galt
PO Box 1714
Malta, MT 5953

Russell Osmundson
PO Box 1455
Malta, MT 59538

Mark & Sarese Pankratz
PO Box 100
Dodson, MT 59524

Doug Osterman
590 First Avenue South #601
Seattle, WA 98104

Roy & Marilyn Taylor
PO Box 1372
Malta, MT 59538

Dusty Emond
7607 Emond Road
Malta, MT 59538

Carol Kienenberger
PO Box 187
Dodson, MT 59524

Jeff Darrah
c/o Montana Sportsmen for Fish & Wildlife
837 Captivating Way
Stevensville, MT 59870

Stephen Mayernik
128 Lone Spring Rd
Stockett, MT 59480

Cheryle Bliss
495 Twin Buttes Rd
Sand Springs, MT 59077-9511

Scott Seaton
PO Box 243
Gardiner, MT 59030

James & Audrey Standish
450 N. Rossmore Ave. # 903
Los Angeles, CA 90004

Patricia Helvey
6220 Elkhorn Rd
Helena, MT 59602-9758

Bab & Mary Lou Young
PO Box 208
Malta, MT 59538

Ronald Fox
c/o FX Bar Ranch
PO Box 96
Turner, MT 59542

Jim Johnson
786 Castle Butte Rd.
Lewistown, MT 59457

Fergus County Commissioners
712 W Main St #210
Lewistown, MT 59457

Miles Hutton
c/o Blaine County Commissioners PO
Box 278
Chinook, MT 59523

McCone County Board of County
Commissioners
1004 C Ave PO Box 199
Circle, MT 59215

Megan Draheim
3065 Porter St NW
Washington, DC 20008

Office of the Governor State Capitol
PO Box 200801
Helena, MT 59620-0801

Willow Creek Coop. State Grazing District
PO Box 422
Glasgow, MT 59230