

# **Citizen Petition to Reclassify Bison as Big Game**

**Proposing Amendments to Chapters W-2 and W-11**



**Colorado Prairie Initiative**

**August 2021**

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## **Introduction**

This is a petition from the Colorado Prairie Initiative (“CPI”) under the Colorado Administrative Procedure Act (Colorado “APA”) and Colorado Division of Parks and Wildlife (“CPW”) regulation #1606 for amendments to certain wildlife definitions pertaining to bison in the State of Colorado. This petition seeks to achieve dual classification for plains bison as both livestock and big game wildlife.

The Colorado Prairie Initiative is a 501(c)(3) nonprofit organization dedicated to restoring and conserving the prairie ecosystems of Colorado. Our vision is a prairie of lush, verdant grasses, robust herds of pronghorn antelope, soaring hawks and eagles, and, perhaps most important, the thundering hoof beats of wild bison. Comprised of hunters, wildlife enthusiasts, outdoor recreators, and scientists, CPI brings together a diverse array of people to find commonality in protecting the prairie.

## **Petition Proposal and Need**

### **a. Intention**

This proposal intends to address a regulatory loophole that has resulted in the State’s failure to protect bison in Colorado. While the State currently does not manage any herds of free ranging bison, several such herds exist and are managed as wildlife in Utah, including animals in the Book Cliffs area of eastern Utah. Directly across the border from Colorado’s game management units (“GMUs”) 21 and 30 (see Appendices 1 and 2), the Book Cliffs area has been the managed range for approximately 400 free range bison since their release in 2009. Both Utah and Colorado agencies confirm that

these animals routinely cross the border into the predominantly-Bureau of Land Management managed areas of western Colorado. However, due to the gap in Colorado's wildlife management authority, the bison enjoy no protections once they cross the invisible delineation between the jurisdictions. Based on anecdotal interviews with individuals familiar with the area, these bison are promptly killed by local residents and their friends or oil field workers. This killing occurs because Colorado does not oversee or regulate bison. These native animals belong on these rangelands and deserve protections within Colorado that allow them to be thrive under management.

### **b. Bison in Colorado**

Current CPW regulations classify bison solely as livestock, removing them from the agency's jurisdiction (*see* COLO. CODE REGS. 1103(A); C.R.S. § 33-1-102(51)). This classification is neither ecologically nor ethically responsive to the situation in GMUs 21 and 30. Most obviously, no one owns or supervises the bison that migrate from Utah. Indeed, they are considered wildlife in Utah (UTAH ADMIN. CODE R657-3) and the idea that they would transform into domesticated livestock several miles farther east defies regulatory reasonability. Also problematic is the scientific reality that these animals do not fit within an accepted definition of domestic animals.

There are many definitions of domesticated animals, and although they may vary somewhat, one clear trend runs throughout. Domesticated animals have undergone selection over many generations, and are genetically different from their wild cousins – a fact acknowledged by CPW's regulations (COLO. CODE REGS. 1100(B)). Domestic animals also tend to be calmer than their wild relatives, and have a greater affinity to humans (Wilkins et al. 2014). Thus, biologically there are no domestic bison anywhere

on Earth, as none of them are genetically distinct enough or naturally calm enough to be set apart from other bison the way other domestic animals can be distinguished from their wild relatives. While most bison have some gene introgression from cattle (*Bos taurus*), these genes alone do not make them domestic animals. Like other wild animals such as elk, bison can be kept as livestock. However, unlike other species such as cattle and sheep, which have some wild and some domestic populations, bison and elk are simply wild animals that can be kept as livestock if people so desire. That status needs to be reflected in CPW's regulations. Indeed, bison are the only large species of native North American ungulate to not be regulated at least in part as wildlife. This antiquated and unfounded singling out must be corrected.

Additionally, bison serve a crucial ecological role within their rangeland ecosystems that is disserved by allowing them to be killed without oversight. Bison are the only native species that CPW classifies as solely domestic. This is an inadequate classification for one of the most charismatic animals ever to roam modern North America. It is time for Colorado to recognize the ecological role that these animals have. Bison are a keystone grassland species and have a large role to play in their native rangeland ecosystems. (Knapp et al. 1999). Through their foraging, defecating, and wallowing activities, bison alter plant community composition (Collins et al. 1998), affect invertebrate communities (Nickell et al. 2018) and promote the growth of new, enriched ecosystems in ways that cattle may not be able to replicate (Allred et al. 2011). Their carcasses can support diverse populations of scavenging vertebrates and invertebrates (Bailey 2013). Bison are an important form of native range wildlife and

should be recognized as such. Their services and presence are a crucial tool in the restoration and conservation of grassland ecosystems (Manning 2011).

## **Statutory Authority**

The Colorado APA gives an interested person or group “the right to petition for the issuance, amendment, or repeal of a rule.” COLO. REV. STAT. § 24-4-103(7). This petition seeks to amend CPW regulations 200 and 1103.

CPW has the authority to make the petitioned change pursuant to C.R.S. § 33-1-102(2) which defines “Big game” to include in relevant part “all species of large mammals that may be introduced or transplanted into this state for hunting *or are classified as big game by the commission*” (emphasis added). Because the petitioned changes do not require CPW to actively release or reintroduce any animals the requirements of C.R.S. § 33-2-105.7 are not implicated.

## **Proposed Changes**

For purposes of this petition, blue italics will represent additions to an existing regulation. This petition proposes the following two changes:

### **a. Chapter W-2, Regulation #200**

#### #200 – DEFINITIONS

*E. “Big Game” means elk, white-tailed deer, mule deer, moose, plains bison, rocky mountain bighorn sheep, desert bighorn sheep, rocky mountain goat, pronghorn antelope, black bear, and mountain lion.*

## **b. Chapter W-11, Regulation #1103**

### #1103 – EXEMPTIONS FROM LICENSE REQUIREMENTS

A. Domestic animals – The following animals are considered domestic and are exempted from Parks and Wildlife Commission Regulations:

*Privately-owned* Bison (*Bison bison bison*) including hybrids with domestic cattle

## **Bison Across the West**

The dual-classification model put forth in this petition is already in place in several other Rocky Mountain states. Most notably, Utah classifies bison as “wild and free ranging,” (UTAH ADMIN. CODE R657-3), unless they are “privately owned” in which case they are exempt from wildlife regulations (UTAH ADMIN. CODE R657-3-2).

Similarly, Montana’s Department of Fish, Wildlife, and Parks has jurisdiction over wild bison, which are “bison that have not been reduced to captivity.” MONT. CODE ANN. § 87-2-101(1)(b). But the Montana code clearly differentiates “domestic or feral bison” for agricultural purposes. MONT. CODE ANN. § 81-1-101(14). Arizona, Wyoming<sup>1</sup>, and New Mexico also employ this system of dual classification.

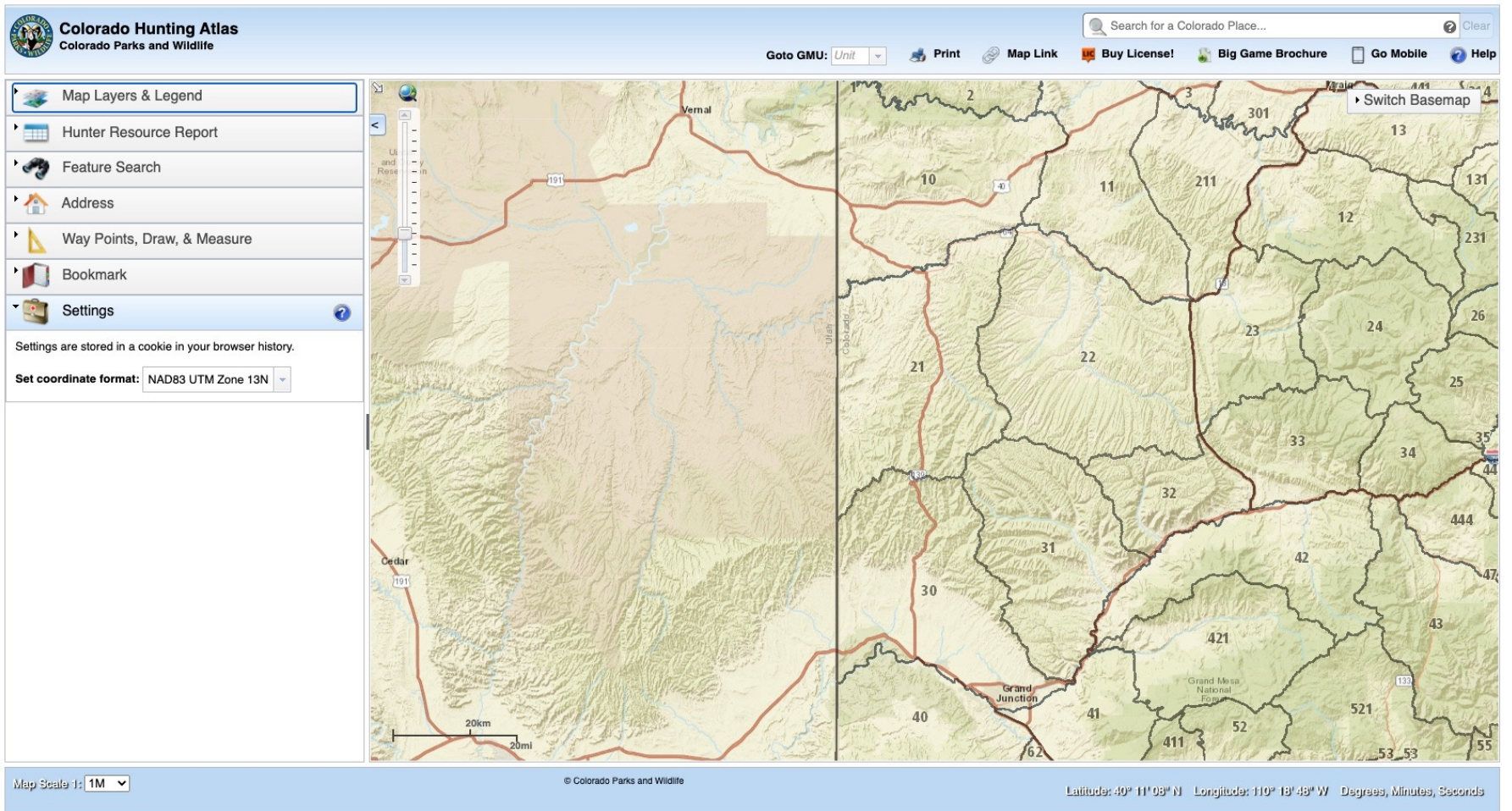
Nebraska, Oklahoma, and Kansas only classify bison as livestock. Idaho classifies bison as unprotected wildlife.

See Appendix C for examples of regulations and statutes from the states in question pertaining to the dual classification of bison.

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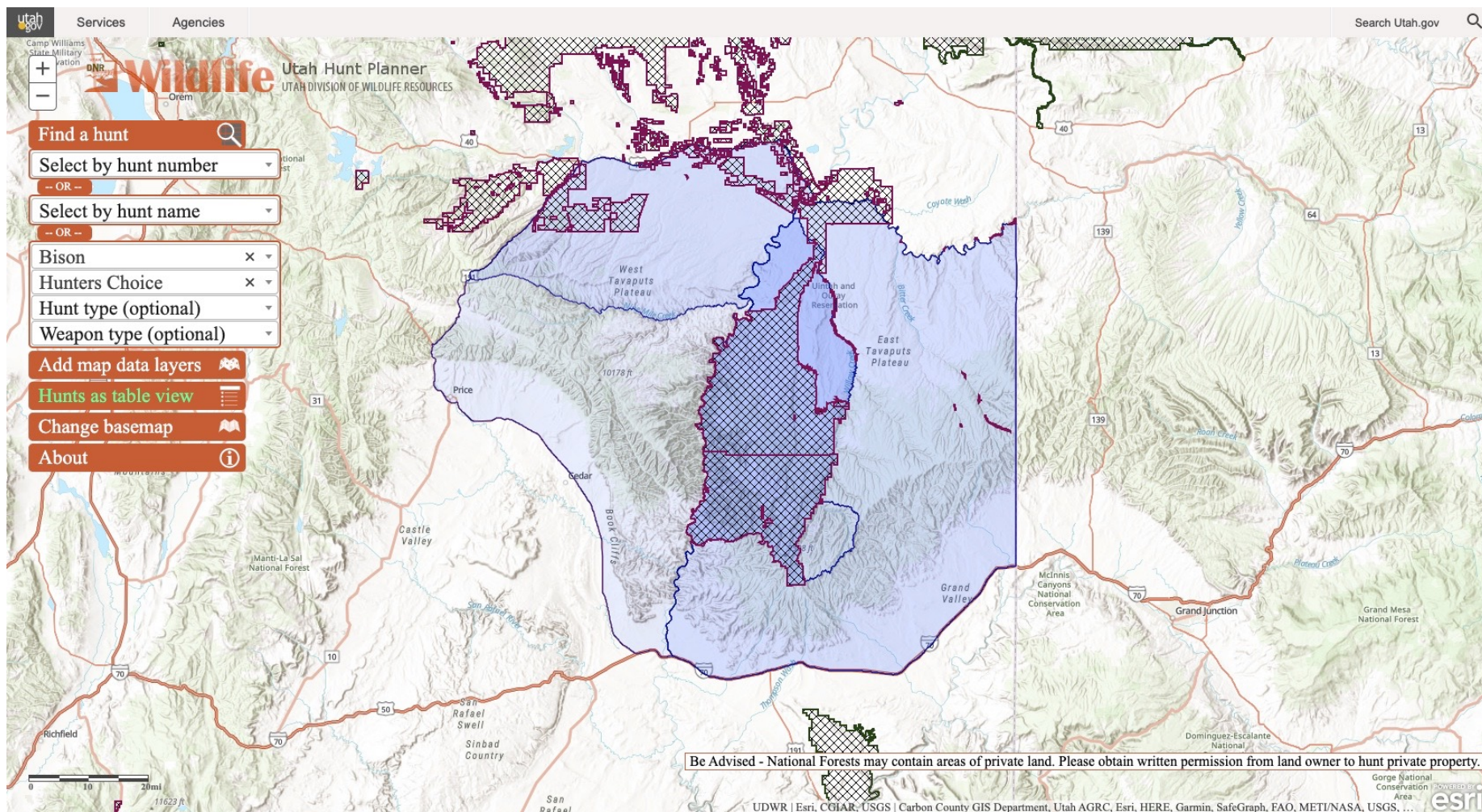
<sup>1</sup> Wyoming has declared as wild the bison in two specific management areas outside the Greater Yellowstone Ecosystem; outside of these areas they are considered livestock regardless of their purpose.

# Appendix A - Map of Western Colorado Game Management Units





## Appendix B – Book Cliffs Bison Unit



## **Appendix C – Western State Bison Statutes and Regulations**

### **Arizona**

#### **Title 17. Game and Fish Chapter 1. General Provisions Article 1. Definitions and Authority of the State**

##### **§ 17-101. Definitions**

B. The following definitions of wildlife shall apply:

2. Game mammals are deer, elk, bear, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), mountain lion, tree squirrel and cottontail rabbit.
3. Big game are wild turkey, deer, elk, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), bear and mountain lion.
4. "Trophy" means:
  - (f) Any bison (buffalo).

*Current through L. 2016, ch. 374*

### **Montana**

#### **Title 81. Livestock Chapter 1. Department of Livestock Part 1. General Provisions**

##### **§ 81-1-101. Definitions**

Unless the context requires otherwise, in Title 81, the following definitions apply:

- (1)(a) "Bison" means domestic bison or feral bison.
- (b) The term does not include:
  - (i) wild buffalo or wild bison; or
  - (ii) for the purposes of chapter 9, buffalo.
- (4) "Domestic bison" means a bison owned by a person.
- (5) "Feral bison" means a domestic bison or progeny of a domestic bison that has escaped or been released from captivity and is running at large and unrestrained on public or private land.
- (6) "Wild buffalo" or "wild bison" means a bison that has not been reduced to captivity and is not owned by a person.

**Title 87. Fish and Wildlife**  
**Chapter 2. Fishing, Hunting, and Trapping Licenses**  
**Part 1. General Provisions**

**§ 87-2-101. Definitions**

As used in Title 87, chapter 3, and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

- (14) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

*Current through Initiative Measure No. 182, Approved 11/8/2016*

**New Mexico**

**Chapter 17. Game and Fish and Outdoor Recreation**  
**Article 2. Hunting and Fishing Regulations**  
**Part 1. General Provisions**

**§ 17-2-3. Protected wildlife species and game fish defined**

A. The following mammals are game mammals:

- (2) within the family Bovidae:

- (a) all of the genus Bison (American bison) except where raised in captivity for domestic or commercial meat production;

*Current as of May 06, 2021*

**Utah**

**Utah Administrative Code Title R657 – Wildlife Resources**  
**Rule R657-3. Collection, Importation, Transportation, and Possession of Animals**

**R657-3-24. Classification and Specific Rules for Mammals**

(1) Mammals are classified as follows:

- (n) Hoofed mammals (Artiodactyla and Perissodactyla) are classified as follows:

- (i) American bison or "buffalo" wild and free ranging, (Bos bison) family Bovidae is prohibited for collection, importation and possession;

**R657-3-2. Species Not Covered by This Rule**

The following species of animals are not governed by this rule:

- (3) American bison, privately owned (Bos bison);

*Current through Register Vol. 2016-24, December 15, 2016*

## Wyoming

### Regulations Chapter 41. Bison Designated as Wildlife

#### **Section 2. Definitions.**

(e) “Wild bison” means any bison that is found in the Absaroka wild bison management area or Jackson wild bison herd area that is not a privately owned bison.

**Section 3. Bison Designated as Wildlife.** Wild bison found in the Absaroka wild bison management area and Jackson wild bison herd are hereby designated as wildlife.

**Section 4. Bison Designated as Privately Owned.** All bison in the State, excluding wild bison found in the Absaroka wild bison management area and the Jackson wild bison herd area, are hereby designated as privately owned or bison running at large.

*Effective March 28, 2014 to Current.*

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