

## **Key Points About ADF&G's Efforts to Address the Status of Wood Bison Under the U.S. Endangered Species Act**

February 4, 2009

- ◆ Wood bison in Canada are presently considered a threatened species under Canada's Species at Risk Act. They are listed as "endangered" under the U.S. Endangered Species Act (ESA). The U.S. Fish and Wildlife Service (FWS) has initiated a federal rulemaking process to change the status of wood bison under the ESA to "threatened."
- ◆ The status of wood bison under the ESA and how the listing status might affect opportunities for developing Alaska's natural resources has been extensively reviewed by the Alaska Department of Law (DOL).
- ◆ In 2008 the FWS determined that wood bison have status as an endangered species "wherever they occur." While this determination brings wood bison in Alaska under the auspices of the ESA, it also eliminates the basis for a third party petition to force a listing of wood bison in Alaska and provides an opportunity to develop a special rule that will greatly reduce the regulatory burdens normally associated with a listed species.
- ◆ The DOL and ADF&G are actively working with the FWS to promulgate a special rule under section 10(j) of the ESA to designate wood bison in Alaska as a "nonessential-experimental population."
- ◆ This special rule will provide a strong and legally defensible set of regulations that will apply to the management of wood bison, and will include exemptions from most of the regulatory requirements that normally apply to endangered species.
- ◆ Designating wood bison in Alaska as a nonessential experimental population allows them to be treated as "threatened" rather than "endangered." The special rule promulgated under sections 10(j) and 4(d) of the ESA will accomplish the following:
  - For consultation purposes, wood bison would be treated as "proposed for listing" on all lands other than National Park and National Wildlife Refuge lands where they would be treated as "threatened;"
  - Requirements for consultation with FWS over actions that might affect the wood bison would be essentially eliminated on BLM, state, and private lands;

- Designation of critical habitat would be prohibited;
- The rule would specify that unintentional “incidental take” due to other specified activities will not result in FWS or ADF&G enforcement actions (e.g., if a wood bison were accidentally harmed or killed during an oil and gas exploration project);
- Provide for state management and future harvests of wood bison under state management plans; and,
- The special rule to designate wood bison in Alaska as a nonessential experimental population would still apply even if Alaska wood bison populations declined or were completely eliminated due to unforeseen circumstances.

ADF&G will work with all parties affected by the wood bison and ESA issue to objectively evaluate the legal protections that can be accomplished through a special rule under section 10(j) of the ESA for the establishment of nonessential experimental population status and reintroduction of wood bison in Alaska.

***ADF&G will not release wood bison into the wild until the final special rule containing the nonessential experimental population designation and special conditions and exemptions is in place.***

Once a final rule is adopted, if the conclusion reached by the state in consultation with other interested parties is that adequate safeguards are not present and wood bison restoration could severely impact other development opportunities, ADF&G will not proceed with releasing wood bison in areas proposed for development, or possibly anywhere in Alaska.



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***ADF&G is confident that by working together we can implement an approach that will ensure that wood bison and oil and gas and other resource development activities can prosper side by side.***

