

Mary Cochenour
Cochenour Law Office, PLLC
7 West 6th Avenue, Suite 4I
P.O. Box 1914
Helena, MT 59624
(406) 422-8716
mary@cochenourlawoffice.com

Jenny Harbine
Emma Shahabi
Earthjustice
P.O. Box 4743
Bozeman, MT 59772-4743
(406) 586-9699 | Phone
(406) 586-9695 | Fax
jharbine@earthjustice.org
eshahabi@earthjustice.org

Counsel for Plaintiff American Prairie

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

AMERICAN PRAIRIE FOUNDATION,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
INTERIOR; DOUG BURGUM, in his official
capacity as Secretary of the United States
Department of the Interior; UNITED STATES
BUREAU OF LAND MANAGEMENT; and
STEVEAN PEARCE, in his official capacity as
Director of the United States Bureau of Land
Management,

Defendants.

Docket No. CV-26-282-GF-JTJ

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. This case challenges the Bureau of Land Management’s (BLM) decision to terminate grazing permits it previously issued to Plaintiff American Prairie Foundation (American Prairie) that radically and irrationally departs from the agency’s statutory authority and prior practice. BLM 2026 Final Decision (attached). BLM’s May 2026 decision invents a limitation on the agency’s authority to issue grazing permits in which only “production-oriented operations”—i.e., livestock operations primarily managed for commodity production—qualify. And the decision goes on to dismiss aspects of American Prairie’s operations that *are* production-oriented, focusing myopically on American Prairie’s organizational mission to restore and conserve the shortgrass prairie ecosystem in part through bison restoration and grazing on public and private lands in Montana’s northern prairie. Thus, while American Prairie’s permits simply allowed it to graze its bison on public lands like any permittee grazes its livestock, BLM disqualified American Prairie solely because its livestock advance conservation goals.

2. As a result of the agency’s decision, which ends bison grazing on six BLM allotments, American Prairie must remove its 900-plus bison from the federal allotments by September 30, 2026.

3. The agency’s decision represents a sudden reversal of decades-old policy, which allowed American Prairie to graze bison on BLM lands since 2005. For several decades, BLM’s interpretation of the Taylor Grazing Act did not require grazing applicants to demonstrate a “production-oriented” purpose. Even when American Prairie’s permits were challenged in administrative proceedings in 2022, BLM for three years vigorously defended its position that the Taylor Grazing Act did not require a commercial or production intent on the part of the lessee.

4. BLM’s sudden policy reversal creates new requirements for qualified applicants to secure a grazing permit under the Taylor Grazing Act that are not contained in the statute or BLM regulations. BLM’s action is based on an erroneous interpretation of the Taylor Grazing Act and also violates the Administrative Procedure Act’s (APA) requirement that agency decisions be based on relevant factors, rational, and adequately explained.

5. Based on the government’s violations of the law, American Prairie respectfully requests that the Court vacate BLM’s 2026 Final Decision, reinstate American Prairie’s grazing permits terminated by the decision, and award any other relief the Court deems just and necessary.

JURISDICTION AND VENUE

6. Plaintiff brings this action pursuant to the Taylor Grazing Act of 1934, 43 U.S.C. §§ 315–315r, and the APA, 5 U.S.C. § 706(2), which waives the

defendants’ sovereign immunity. This Court has jurisdiction over Plaintiff’s claims pursuant to 28 U.S.C. § 1331 (federal question).

7. The requested declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201, 2202, and 5 U.S.C. §§ 705, 706.

8. This action challenges a final decision of the U.S. Bureau of Land Management under 43 C.F.R. § 4.21(b) because the decision is “in effect” following the failure of the Office of Hearings and Appeals (OHA) or the Secretary of Interior, who took jurisdiction over the appeals on July 13, 2026, to stay the decision within 45 days following the expiration of the time for filing a notice of appeal, *id.* §§ 4.171(e), 4.174. Thus, the challenged action is subject to judicial review under 5 U.S.C. §§ 702, 704, 706.

9. Venue is proper in this District under 28 U.S.C. § 1391(e)(1) because Plaintiff American Prairie resides in this District and the violations alleged in this Complaint largely occurred in this District. Venue is proper in the Great Falls Division of this District because the grazing permits at issue in this case are for lands in Phillips County, Montana, and thus a substantial part of Plaintiff’s claims arise within this Division. *See* Mont. Code Ann. § 25-2-125; *see also* Local Civ. R. 1.2(c)(5), 3.2(b).

10. Plaintiff has standing under Article III of the U.S. Constitution because the challenged actions cause them economic and organizational harm,

which will be remedied by a favorable ruling from this Court. Specifically, the Final Decision cancels American Prairie's six bison-grazing permits and requires American Prairie to remove its almost 1,000 bison from the federal allotments by September 30, 2026. To comply with the BLM's mandate, American Prairie will be forced to cull at least 300 bison from its herds. Reducing the herd size will cause irreparable harm to the bison, including harm to the genetic diversity of the herd and exposing animals to increased risk of disease and injury during handling and transportation. The uncertainty caused by the BLM's about-face policy change has negatively impacted American Prairie's ability to plan for future herd management and interrupted its business relationships and contracts. More, American Prairie, after relying on BLM's approvals for more than twenty years, must move the bison to smaller pastures lacking in adequate forage. To compensate for the loss in forage, American Prairie has already spent more than \$39,000 in contracts for supplemental feed and expects it will need to purchase an additional \$90,000 in supplemental hay as a result of the BLM's action. These harms may be redressed by this Court's judicial review, which, under the APA, may "hold unlawful and set aside agency action, finding or conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." 5 U.S.C. § 706 (2).

11. Plaintiff has exhausted all required administrative remedies.

PARTIES

12. American Prairie is a Montana-based nonprofit organization dedicated to maintaining, stewarding, and preserving the shortgrass prairie ecosystems in Montana through ecosystem-focused management, providing public access, supporting local economies, and working collaboratively with indigenous and local communities. BLM's 2026 Final Decision, which is the subject of this judicial review, cancels American Prairie's six grazing permits, which permitted the organization to graze bison on public lands for years. As a result of BLM's 2026 Final Decision, American Prairie must vacate its bison from the federal allotments by September 30, 2026. Removing the bison will cause immediate and irreparable financial and organizational injury to the organization.

13. Defendant U.S. Department of the Interior (Interior or DOI) is a federal department responsible for implementing and complying with federal laws, including administering grazing permits under the Taylor Grazing Act and governing the management of federal lands under the Department's jurisdiction, including the federal allotments at issue in this lawsuit.

14. Defendant Doug Burgum is Secretary of the U.S. Department of the Interior. Secretary Burgum is responsible for implementing and complying with federal laws governing federal grazing leases, including administering grazing permits under the Taylor Grazing Act. Secretary Burgum directed BLM to

reconsider its long-held authorizations of American Prairie’s grazing permits and has twice assumed jurisdiction of the administrative appeals related to BLM’s decisions on these permits.

15. Defendant BLM is an agency within the Department of Interior that is responsible for administering more than 245 million acres of public lands to sustain the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations, including the BLM allotments associated with American Prairie’s grazing permits. BLM’s mission is principally defined by the Federal Land Policy and Management Act of 1976, which requires the agency to “multitask the myriad land uses” and not narrowly focus on one use.¹ BLM’s 2026 Final Decision terminating American Prairie’s grazing permits is the subject of this action for judicial review.

16. Defendant Stevan Pearce is BLM’s Director and responsible for managing public lands, including the grazing allotments at issue in this action. In managing public lands, including those at issue in this decision, BLM readily admits that it “cannot narrowly focus on a single activity at the expense of other authorized uses of the public land.”²

¹ United States Department of the Interior, Bureau of Land Management, *What We Manage Nationally*, <https://www.blm.gov/about/what-we-manage/national> (last visited July 30, 2026).

² *Id.*

LEGAL BACKGROUND

17. BLM’s authority to administer grazing permits on federal public lands derives from three interlocking federal statutes: the Taylor Grazing Act of 1934 (TGA), 43 U.S.C. §§ 315–315r; the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. §§ 1701–1787; and the Public Rangelands Improvement Act of 1978 (PRIA), 43 U.S.C. §§ 1901–1908. Together, these statutes form a layered statutory scheme in which the TGA provides the foundational framework for grazing districts and permit issuance, FLPMA modernizes and expands that framework through land use planning and detailed permit administration requirements, and PRIA supplements both by mandating rangeland monitoring, establishing a grazing fee formula, and creating incentive programs for improved stewardship.

18. The Taylor Grazing Act authorizes BLM to issue grazing permits to “bona fide settlers, residents, and other stock owners” pursuant to BLM regulations. 43 U.S.C. § 315b. The Act establishes a preference system: preference in permit issuance is given to landowners engaged in the livestock business, bona fide occupants or settlers, or owners of water or water rights within or near a district, as necessary to permit the proper use of lands, water, or water rights owned, occupied, or leased by them. 43 U.S.C. § 315. However, while affording preference to such permit holders, nothing in the Act restricts permitting to such

applicants. The Act sets ten-year permit terms with preference right of renewal for landowners, occupants, and water rights holders. *Id.* § 315b. BLM regulations additionally require that an applicant must (1) own or control land or water base property, and (2) either meet United States citizenship requirements, or be an entity authorized to conduct business in the state in which grazing is intended. 43 C.F.R. § 4110.1(a) (2005).³ The Act was designed to “promote the highest use of the public lands,” 43 U.S.C. § 315, for the “protection, administration, regulation, and improvement of such grazing districts,” and “to preserve the land and its resources from destruction or unnecessary injury.” *Id.* § 315a.

19. FLPMA requires BLM to manage public lands, including rangeland, “on the basis of multiple uses and sustained yield.” *Id.* § 1701(a)(7). Under FLPMA, “multiple uses” is identified as “management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people.” *Id.* § 1702(c). In defining the term “multiple uses” Congress specifically listed resource values, including recreation, range, watershed, wildlife and fish, natural scenic, scientific, historical ecological, environmental, and air and atmospheric resources. *Id.*

³ Although BLM updated its grazing regulations in 2006, their implementation was enjoined. *W. Watersheds Project v. Kraayenbrink*, 538 F. Supp. 2d 1302 (D. Idaho 2008), *aff’d* 632 F.3d 472 (9th Cir. 2011). Thus, American Prairie cites to BLM’s prior regulations, 43 C.F.R. part 4100 (2005).

FLPMA guides public lands managers to strive for “harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.” *Id.*

20. Like FLPMA, PRIA guides the Department of the Interior’s management of public lands—specifically rangelands—to support an array of activities and values, not to elevate livestock production over other uses. In enacting PRIA two years after FLPMA, Congress underscored that if grazing uses are continued on tracts of public lands, the goal of managing them “shall be to improve the range conditions ... so that they become as productive as feasible in accordance with the rangeland management objectives established through [FLPMA’s] land use planning process, and consistent with the values and objectives” Congress identified in PRIA. *Id.* § 1903(b). Those values and objectives include, besides livestock production, “wildlife habitat, recreation, forage, and water and soil conservation,” and “the value of such lands for recreational and esthetic purposes.” *Id.* § 1901(a)(1), (3); *see also Nat. Res. Def. Council, Inc. v. Hodel*, 618 F. Supp. 848, 861 (E.D. Cal. 1985).

21. The Court’s review of BLM’s 2026 Final Decision is governed by the APA, under which the Court must set aside the agency’s decision if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). A decision is arbitrary and capricious if the agency has relied on factors which Congress had not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. *O’Keeffe’s, Inc. v. U.S. Consumer Prod. Safety Comm’n*, 92 F.3d 940, 942 (9th Cir.1996) (internal citations omitted).

FACTUAL BACKGROUND

I. AMERICAN PRAIRIE

22. American Prairie is a Montana-based nonprofit organization dedicated to restoring and conserving the shortgrass prairie ecosystem in the northern Great Plains of Montana. American Prairie advances its mission by restoring native biodiversity, including populations of bison, pronghorn, elk, and prairie dogs. A major pillar of the project is maintaining a genetically sustainable conservation herd of American bison on the plains.

23. In furtherance of its organizational goals, American Prairie has acquired private properties in north-central Montana at fair market prices from

willing sellers. As a result, American Prairie owns the base property and enjoys grazing preference to all allotments at issue in the 2026 Final Decision. Currently, approximately 8,000 cattle and 940 bison graze across American Prairie's leased and deeded properties.

24. Under Montana law, American Prairie actively manages its bison in a similar manner to cattle grazing on its lands. As BLM acknowledged in 2022 when it issued the permits to American Prairie that it has now terminated, American Prairie's bison are "privately-owned, domestic bison." BLM Pub. Comment Rep. at A-18 (2022).

As such, they are subject to Montana state livestock disease and sanitation laws. Furthermore, Montana law's definition of "livestock" includes "bison", Montana Code Annotated, Title 81, Livestock, §81-2-702(5). The proposed action and alternatives require compliance with Montana livestock laws and the bison will be rotated and moved through pastures like other livestock authorized on BLM allotments. APR will be required to maintain range improvements and manage the bison grazing to meet land health standards. Under the BLM grazing regulations at 43 CFR Part 4100, APR will be required to manage the bison as a domesticated livestock herd.

Id. Further, bison imported to American Prairie or exported to other owners have import permits or transportation permits filed with the Montana Department of Livestock and the USDA's Animal Plant Health Inspection Service. American Prairie's bison are confined to specific pastures, tagged for identification, and

tested for disease. American Prairie pays the State of Montana a per capita fee of \$6.32 per animal.

25. BLM first authorized American Prairie to graze bison on the Telegraph Creek allotment in 2005. BLM 2026 Final Decision at 2. In 2008, BLM approved American Prairie's request to graze bison on the Box Elder allotment. *Id.* An environmental analysis supported BLM's decision to permit bison grazing on the two leases and American Prairie has been grazing on these allotments for approximately two decades.

26. Notes from BLM's rangeland health specialist demonstrates that rangeland conditions have improved significantly on these allotments where American Prairie's bison have been authorized to graze.

II. BLM'S 2022 ISSUANCE OF GRAZING PERMITS AND ADMINISTRATIVE APPEAL

27. In 2019, American Prairie submitted an application to BLM to renew the bison grazing authorizations on Telegraph Creek and Box Elder allotments and request bison grazing be expanded to the Flat Creek, Whiterock Coulee, French Coulee, Garey Coulee, and East Dry Fork allotments.⁴

⁴ All decision documents can be found online at "BLM National NEPA Register" <https://eplanning.blm.gov/Documents/?id=23a49ba0-a7f2-f011-8407-001dd803d067&spid=d3045e6f-a8f2-f011-8407-001dd80bcf93> (last visited July 30, 2026).

28. BLM conducted public scoping and completed a 180-page environmental analysis that concluded American Prairie’s proposal would have no significant impact to the environment. In responding to public comment regarding the purpose of the Taylor Grazing Act, the BLM stated that “the productivity, or non-productivity, of livestock or privately owned or controlled animals is not a factor for issuing grazing permits.” BLM Pub. Comment Rep. at A-1. BLM concluded that “[t]he statement about the TGA reserving BLM lands for production agriculture is a misinterpretation of the TGA.” *Id.* BLM ultimately held that American Prairie is eligible to hold permits under the Taylor Grazing Act’s qualification requirements that authorize the Secretary to issue grazing permits to “bona fide settlers, residents, and *other stock owners*.” 43 U.S.C. § 315b (emphasis added); BLM Pub. Comment Rep. at A-2.

29. On July 28, 2022, BLM issued its Final Decision (BLM 2022 Final Decision) authorizing bison grazing and fencing modifications on all the allotments in the application except East Dry Fork, which remained authorized for cattle grazing. BLM 2022 Final Decision at 1.

30. The State of Montana, by its Attorney General and the Governor, alongside the Montana Stockgrowers Association (MSGA) and other livestock interest groups appealed the 2022 Final Decision to the Department of Interior, Office of Hearings and Appeals, Departmental Cases and Hearings Division

(DCHD). DCHD Order Denying Stay (Oct. 13, 2022). at 2. The administrative law judge denied their petition to stay, and American Prairie began grazing bison under the 2022 Final Decision shortly thereafter. *Id.* Montana and MSGA appealed the DCHD’s order denying stay to the Interior Board of Land Appeals (IBLA), which affirmed the DCHD’s denial of stay. The Governor of Montana appealed the IBLA order denying the stay to the U.S. District Court of Montana.

31. Throughout 2022, 2023, 2024, and into the beginning of 2025, BLM vigorously defended its 2022 Final Decision and its authority to issue bison grazing permits to American Prairie under the Taylor Grazing Act. In the administrative appeals, BLM asserted that Montana’s and MSGA’s “position [that the Taylor Grazing Act requires ‘production-oriented’ livestock] requires that BLM and the Hearings Division read words into the TGA that are not there, notably, ‘production’.” OHA Docket Nos. MT-010-22-01, -02, -03 (consol.), BLM’s Br. in Resp. to Montana Attorney General’s Petition for Stay at 14. The BLM correctly noted that the “TGA does not contain the word production” and the statute’s “promulgating regulations found at 43 C.F.R. §1400, et seq. do not contain the word production as a qualification or prerequisite to hold a grazing permit or lease, nor do they provide BLM with a framework within which to base its grazing decisions on the presence or lack of livestock production and/or the amount of livestock production.” *Id.* at 14–15. BLM reiterated this position in each

of the agency's filings, including in its summary judgment brief submitted to the DCHD on September 29, 2023, *see* OHA Docket Nos. MT-010-22-01, -02, 03 (consol.), BLM Consol. Brief in Resp. to Appellants' Mot for Summary Judgment and BIS of Cross Mot. for Summary Judgment.

32. The administrative appeals were fully briefed, and the parties were awaiting a DCHD decision, when on February 3, 2025, BLM filed a Motion for Voluntary Remand of the 2022 Final Decision without vacatur. On December 9, 2025, before the DCHD ruled on the BLM's remand motion or the pending appeals, the Secretary of the Interior took the rarely used step of assuming jurisdiction of the administrative appeals. OHA Docket Nos. MT-010-22-01, -02, -03 (consol.), Assumption of Jurisdiction Pending Grazing Appeals. The Secretary issued an order granting BLM's motion for vacatur without remand and ordering the agency "to take into account the arguments raised in this appeal" and for the agency to "reconsider" its position in the BLM 2022 Final Decision. OHA Docket Nos. MT-010-22-01, -02, -03 (consol.), Order Granting Mot. For Remand at 2.

33. On December 15, 2025, the DCHD dismissed the pending appeals due to the Secretary's remand of the decision back to the agency. The State followed by voluntarily dismissing its federal district court appeal of IBLA's stay decision as moot.

III. BLM’S 2026 FINAL DECISION TERMINATING AMERICAN PRAIRIE’S BISON GRAZING PERMITS

34. On January 16, 2026, BLM issued a Notice of Proposed Decision, proposing the reversal of its long-held interpretation of the Taylor Grazing Act and the “cancellation” of American Prairie’s grazing permits authorizing bison grazing. 2026 Notice of Proposed Decision. In a three-page analysis, BLM decided that, under its new interpretation of the term “livestock” as referenced in the TGA, the agency had only the authority to issue grazing permits in cases “where the animals to be grazed are domestic and will be used for production-oriented purposes.” and “[t]hat would include their being used for their meat, milk, fiber, or other animal products.” *Id.* at 3–4. BLM also extended the meaning of “livestock” to include “animals used in support of production-oriented operations, such as horses used to herd cattle managed for production.” *Id.* at 4. BLM concluded it no longer had authority under the Taylor Grazing Act to issue grazing permits to American Prairie because, based on the organization’s own public statements related to conservation practices, its bison did not satisfy the agency’s new interpretation of the word “livestock.” *Id.*

35. BLM received 35 protests of its Proposed Decision. BLM 2026 Final Decision at 2. This number includes American Prairie’s protest, which asserted that BLM’s legal conclusions are contrary to the Taylor Grazing Act, FLPMA, and PRIA; and reflect an arbitrary reversal of BLM’s prior, long-standing position. In

its protest, American Prairie submitted substantial evidence demonstrating that—even if it were lawful to require “production-oriented” animals for BLM grazing lands, which it is not—the organization meets the new “production-oriented” requirement by providing the public with thousands of pounds of bison meat for consumption and supplying other entities with bison for business herds, genetics for seed stock, or for sale to generate revenue. In its protest, American Prairie also contested BLM’s conclusions that its bison are wild rather than domestic, providing photos and declarations demonstrating the organization’s animal husbandry practices used to manage its bison. This evidence showed, among other things, American Prairie employees tagging individual animals for identification, handling bison for disease testing, and herding bison for feeding practices and pasture management.

36. On May 8, 2026, BLM issued its 2026 Final Decision, reaffirming BLM’s new position that the terms “live” and “stock,” when defined separately, limit the agency’s authority to issue grazing permits under the TGA to “cases where the animals to be grazed are domestic and will be used for production-oriented purposes.” BLM 2026 Final Decision at 3.

37. Notwithstanding the evidence presented by American Prairie that it has contributed hundreds of bison to tribal food sovereignty programs, supplied bison as breeding stock to grow bison herds for meat production and economic

benefits, and allowed the public to harvest hundreds of bison for meat consumption, BLM concluded that “American Prairie’s bison do not so qualify.” *Id.* at n. 1. BLM stated while some of American Prairie’s practices resemble those of a “true production-oriented operation,” others do not. *Id.* at 5. Specifically, BLM pointed to the organization’s lottery for a public harvest, *id.*, which American Prairie stated in its protest has yielded more than 75,000 pounds of bison meat for public consumption and has been a source of revenue for the organization. BLM rejected this evidence of meat production on the basis that a field harvest is “not a practice familiar to livestock cattle operation.” *Id.*

38. After deciding that the way American Prairie’s bison meat wound up on the dinner plate did not meet BLM’s standard for “production-oriented” animals, BLM looked to American Prairie’s materials, management plans, and public communications. *Id.* BLM decided that American Prairie’s bison do not qualify as “production-oriented livestock” because American Prairie held itself out to the public as a conservation organization. BLM gave particular weight to a podcast interview in which American Prairie’s president used phrases that are “not the language of a livestock production-oriented operation.” *Id.* at 6. BLM decided that it could not overlook “the organization’s repeated and ongoing references to conservation and restoration as core to its bison effort” and that “[c]onsidering

American Prairie’s consistent public messaging, it is clear that American Prairie is not engaged primarily in domestic livestock production.” *Id.* at 6.

39. BLM further dismissed the fact that American Prairie’s bison are classified as domestic livestock under Montana law, stating that the term “domestic” in the context of the federal grazing statutes “is not focused on disease control, identification, and the payments of state fees.” *Id.* at 7. Because American Prairie has stated that it “‘puts [their bison] to work as the ecosystem engineer that they are ... in terms of rewilding the prairie’ ... it is clear that American Prairie intends to keep its bison as wild animals to further its conservation goals.” *Id.* at 7.

40. BLM concluded that it “lacks statutory authority under the TGA to authorize grazing by bison under the circumstances presented here.” *Id.* at 8. BLM terminated American Prairie’s permits on six allotments that authorized bison grazing and re-issued them for cattle grazing only. The BLM 2026 Final Decision made “no changes” to American Prairie’s cattle-only grazing permit for a seventh allotment—East Dry Fork. *Id.* BLM afforded American Prairie less than five months, until September 30, 2026, to remove its more than 900 bison from the federal allotments. *Id.*

41. In the days following BLM’s 2026 Final Decision, the agency proposed changes to its grazing regulations that would apply a different “production-oriented” standard for all future applicants of grazing permits than it

applied to American Prairie. 91 Fed. Reg. 26852 (May 12, 2026). Rather than requiring an applicant be *primarily* a production-oriented operation as it required of American Prairie, BLM now proposes to limit grazing permits to “production-oriented livestock,” requiring only that livestock be “used *as part of an operation* to provide output for various purposes, such as meat, milk, fiber, or other products and any animals when they are being used to assist with management of other animals in connection with such operations (e.g. horses that are used to assist with cattle management).” *Id.* at 26852 (emphasis added). The proposed rule has not yet been finalized.

IV. ADMINISTRATIVE APPEAL OF THE 2026 FINAL DECISION

42. American Prairie filed an administrative appeal of BLM’s 2026 Final Decision before the Office of Hearings and Appeals, Departmental Cases Hearing Division (DCHD) on June 4, 2026. Along with the appeal, American Prairie sought a stay of BLM’s decision, pursuant to 43 C.F.R. § 4.171(a)(1). The petition for stay and accompanying declarations demonstrated that the decision is causing immediate and irreparable harm to American Prairie as the organization prepares to move more than 900 bison off the federal allotments, where they have been grazing for more than twenty years. This forced relocation will result in severe financial costs, harm to the health and future of the bison herds, and harm to American Prairie’s mission.

43. On July 13, 2026, before the DCHD administrative law judge could rule on American Prairie's request for stay, the Secretary of Interior, through Deputy Secretary Katherine McGregor, assumed jurisdiction over American Prairie's administrative appeal of BLM's 2026 Final Decision.

44. On July 14, 2026, the administrative law judge dismissed American Prairie's administrative appeal.

45. Neither the administrative law judge nor the Secretary acted on American Prairie's stay petition within 45 days following the expiration of the time for filing a notice of appeal, 43 C.F.R. §§ 4.171(e), 4.174. American Prairie received a copy of BLM's 2026 Final Decision on May 18, 2026. The time for appeal expired on June 17, 2026. The time for the government to rule on the motion for stay therefore expired on August 1, 2026. No ruling was issued on the stay within that 45-day timeframe. Accordingly, BLM's decision is in effect and final for purposes of judicial review. *Id.* § 4.174(b).

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Violation of the Taylor Grazing Act, 43 U.S.C. § 315b,
and APA, 5 U.S.C. § 706(2)(A))

46. All preceding paragraphs are hereby incorporated as if fully set forth herein.

47. BLM’s 2026 Final Decision violated the Taylor Grazing Act by misinterpreting the statute’s plain language, purpose, and history to unlawfully limit the Secretary’s authority to issue grazing permits to only those operations in which “the animals to be grazed are domestic and will be used for production-oriented purposes.” BLM 2026 Final Decision at 3.

48. The Taylor Grazing Act expressly authorizes the Secretary of the Interior “to issue or cause to be issued permits to graze livestock on such grazing districts to such bona fide settlers, residents, and other stock owners ... upon payment annually of reasonable fees in each case to be fixed or determined from time to time in accordance with governing law.” 43 U.S.C. § 315b.

49. Interpreting the statute’s language and structure, the U.S. Supreme Court held that the Taylor Grazing Act’s plain language is unambiguous and cannot be read to limit grazing permits to only “landowners engaged in the livestock business.” *Pub. Lands Council v. Babbitt*, 529 U.S. 728, 745–46 (2000). This is the best reading of the Taylor Grazing Act, and it forecloses BLM’s reading of a “production” requirement into the statute.

50. BLM’s new interpretation of the Taylor Grazing Act unlawfully created qualifications for grazing applicants not found in the statute’s text; Therefore, the agency’s statutory interpretation is arbitrary, capricious, an abuse of

its discretion and otherwise not in accordance with the law pursuant to 5 U.S.C. § 706(2)(A).

SECOND CAUSE OF ACTION
(Violation of the APA, 5 U.S.C. § 706(2)(A))

51. All preceding paragraphs are hereby incorporated as if fully set forth herein.

52. BLM's adoption and application of a "production" standard for livestock grazing permits was arbitrary and capricious, in violation of 5 U.S.C. § 706(2)(A).

53. BLM also failed to provide a reasoned explanation for reversing its prior determination that American Prairie's bison are eligible for grazing permits and constitute livestock within the meaning of the TGA. *Fed. Comm. Comm'n v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009) (requiring an agency that changes position to acknowledge the change, show good reasons for the change, demonstrate that the change is permissible under statute, and account for serious reliance interests engendered by the prior policy).

54. BLM also acted arbitrarily in violation of the APA when it failed to articulate a "rational connection between the facts found and the choice made," relied on factors Congress did not intend it to consider, and overlooked important aspects of the problem. *Motor Vehicle Manufacturers Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43, (1983). As described, BLM arbitrarily invented a

“production” qualification for grazing permittees, requiring the agency to probe applicants’ intent and business model in a fashion not contemplated by Congress. BLM’s action was also arbitrary because, among other things, BLM did not explain how replacing American Prairie’s bison with cattle addresses BLM’s purported concerns that American Prairie manages its livestock for conservation purposes. And BLM did not provide a reasoned explanation for its determination that American Prairie’s conservation mission and public messaging disqualified it from grazing its animals on public land. Nor did the agency give a reasoned explanation for its failure to provide American Prairie with an opportunity to meet the agency’s demands before terminating its longstanding permits.

55. Additionally, BLM arbitrarily offered an explanation for its decision that ran counter to the evidence before it when it determined that American Prairie does not satisfy BLM’s new “production” requirement. Specifically, BLM set forth a standard for “production” and then refused to apply its own standard to American Prairie, arbitrarily overlooking and dismissing evidence that American Prairie’s bison are in fact domestic and managed as livestock. BLM irrationally cast aside uncontroverted evidence that American Prairie uses its bison for meat consumption, commercial purposes, genetic breeding stock for existing bison operations, and other purposes of commercial and/or cultural value. BLM also ignored evidence that American Prairie’s bison herd supports other production-

oriented operations, including those operations that use the bison to feed people through commercial sales and food sovereignty programs.

56. Thus, BLM's 2026 Final Decision was arbitrary and capricious, an abuse of the agency's discretion, or otherwise not in accordance with law, in violation of the APA, 5 U.S.C. § 706(2)(A).

PRAYER FOR RELIEF

THEREFORE, Plaintiff respectfully requests that this Court:

1. Declare that BLM's 2026 Final Decision terminating American Prairie's grazing permits on six allotments violates the TGA and the APA;
2. Set aside and vacate BLM's 2026 Final Decision;
3. Reinstate American Prairie's grazing permits terminated by the 2026 Final Decision;
4. Award Plaintiff preliminary and permanent injunctive relief prohibiting the BLM from implementing its 2026 Final Decision;
5. Award American Prairie its reasonable fees, costs, and expenses, including attorney fees, associated with this litigation; and
6. Grant American Prairie such further and additional relief as the Court may deem just and proper.

Respectfully submitted this 4th day of August, 2026.

/s/ Mary E. Cochenour

Mary Cochenour
Cochenour Law Office, PLLC
7 West 6th Avenue, Suite 4I
P.O. Box 1914
Helena, MT 59624
(406) 422-8716
mary@cochenourlawoffice.com

Jenny Harbine
Emma Shahabi
Earthjustice
P.O. Box 4743
Bozeman, MT 59772-4743
(406) 586-9699 | Phone
(406) 586-9695 | Fax
jharbine@earthjustice.org
eshahabi@earthjustice.org

Counsel for Plaintiff American Prairie

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2026, I caused an accurate copy of the foregoing document to be served via certified mail on Defendants.

Todd Blanche
Acting Attorney General
US Department of Justice
950 Pennsylvania Ave NW
Washington DC 20530

US Bureau of Land Management
1849 C St NW
Washington DC 20240

Doug Bergum
Secretary of the Interior
1849 C St NW
Washington DC 20240

Stevan Pearce
BLM Director
1849 C St NW
Washington DC 20240

Mark Steger Smith
Acting US Attorney
2601 2nd Ave N, STE 3200
Billings MT 59101

/s/ Mary E. Cochenour
Mary E. Cochenour
Counsel for American Prairie