



## U.S. Forest Service

### Custer Gallatin National Forest

#### BACKGROUND AND JUSTIFICATION

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*June, 2020*

**TOPIC:** McConnell Fishing Access and Beattie Gulch Area Shooting Closures

**SUMMARY:** Given the close proximity of private residences, developed facilities, and high density hunter and public use, the Forest Service is initiating the process for year-round shooting closures on two areas (the McConnell Fishing Access area and the Beattie Gulch area) near Gardiner, Montana, to provide a buffer zone for the protection of public health and safety. The size of the areas has been limited to the minimum necessary to protect public health and safety.

**BACKGROUND:** The area north of Gardiner, Montana is prime winter range for big game of all types. It is not uncommon to see herds of bison, elk, deer, pronghorn antelope, and big horn sheep in this area. Many people also enjoy this area, both visitors and residents who continue building and developing homes and businesses on Yellowstone National Park's doorstep. There are many developed recreation facilities in the area, including Gardiner Airport, fishing access sites, developed trailheads, and picnic areas, as well as a state highway and other roads.

Bison and other big game migrate out of Yellowstone National Park to more suitable winter range on private and National Forest System lands to the North and West of the National Park. Several hundred bison, as well as other big game, are harvested in these areas each year from late November to early May. The majority of the bison harvested are hunted by tribal hunters from seven different tribes, although the State of Montana also issues a bison permits to non-tribal hunters. Most of the bison hunt occurs from mid-November thru April or until spring green-up occurs and animals move back into Yellowstone.

The Forest Service recognizes that there is a limited area where the bison hunt can occur given the need to prevent the spread of brucellosis from bison to cattle. The Interagency Bison Management Partners (Custer Gallatin National Forest, Yellowstone National Park, USDA Animal Plant and Health Inspection Service, Montana Fish, Wildlife and Parks, Montana Department of Livestock and Veterinarian, Nez Perce Tribe, Confederated Salish and Kootenai Tribes, and Intertribal Buffalo Council) strive to offer as much area for bison to move outside of Yellowstone National Park as possible while ensuring temporal and spatial separation from cattle. The result is a hunt that occurs on a limited landscape, part of which is in very close proximity to homes, residences, and developed facilities. This proximity has created public safety concerns, particularly in the McConnell Fishing Access and Beattie Gulch areas, necessitating the emergency shooting closures.

In addition to the current bison hunting season generally running from November - May, hunting may occur year round in the Gardiner basin. A plethora of big-game species, including elk, mule deer, and bighorn sheep, make the Gardiner basin home throughout the year. Tribes assert that their treaty rights acknowledge the ability to hunt year round. The State of Montana has various big game hunting seasons running from August - May each year.

**CURRENT SITUATION:** Hunting is an appropriate use of public land in areas where it can be conducted safely. Two of the areas where bison migrate out of the National Park, the McConnell Fishing Access area and the Beattie Gulch area, are close to many developed facilities including State Highway 89, the Gardiner Airport, Old Yellowstone Trail, and private residences. This proximity makes it difficult, if not impossible to safely shoot a firearm of the caliber needed to harvest a bison or other big game animal.

The Forest Service implemented an emergency shooting closure for the winter of 2019-2020 in the McConnell Fishing Access area and along the west side of the Old Yellowstone Trail (County Road) in the Beattie Gulch area. Both the McConnell Fishing Access and Beattie Gulch areas are located just north of Gardiner, Montana outside of Yellowstone National Park. The Forest Service has implemented similar shooting closures in these two areas in each of the last 5 years during the bison hunting season.

The current emergency shooting closures went into effect December 1, 2019 and encompassed about 5 acres for the McConnell Fishing Access closure area and 18 acres for the Beattie Gulch closure. . The closures will expire on May 28, 2020. The closures fall within the emergency exception in section 4103 of the John D. Dingell, Jr. Conservation, Management and Recreation Act, Public Law 116-9 (Dingell Act), because they are needed to prevent potentially imminent harm to public health and safety.

The proposed year-round closures for these same two areas are “permanent” closures for purposes of the Dingell Act and require a 60-day public notice and comment period. The Federal Register Notice process is scheduled to begin on June 17, 2020.

Beattie Gulch is the primary location where bison migrate out of the Park and is where most of the bison hunt takes place. Currently, seven tribes recognized by the State of Montana (the Shoshone-Bannock Tribe, the Confederated Tribes of the Umatilla, the Nez Perce Tribe, the Confederated Salish Kootenai Tribes, the Blackfeet Tribe, Confederated Tribes and Bands of the Yakama, and the Northern Arapahoe Tribe) have treaty rights to hunt on the Custer Gallatin National Forest. Tribes assert their treaty rights extend throughout the calendar year. Combined with hunters licensed by the State of Montana during various hunting seasons (elk, deer, bighorn sheep, pronghorn antelope, black bear) that span August – May every year, Beattie Gulch may be congested with hunters throughout the year.

The sheer numbers of hunters in Beattie Gulch raises the safety concerns of all present, including private property neighbors across the county road. The Beattie Gulch 18-acre closure area will provide a buffer of no shooting on NFS lands closest to a county road and adjacent private land. The 18-acre closure area is roughly a rectangle 150 yards wide by ½ mile long, paralleling the county road, with private lands along the opposite side of the road. The approximately 150 yard width is consistent with the 36 CFR 261.10 Subpart A prohibitions. Therefore maintaining consistency and clarity to recreational users.

The McConnell Fishing Access closure area is located along the Yellowstone River closer to Gardiner. It will ensure that no shooting occurs in a small but congested area sandwiched between a fishing access site, the Gardiner airport, State Highway 89, and the Yellowstone River. Other state and federal regulatory shooting prohibitions are in place in this vicinity, including: 36 CFR 261.10 Subpart A prohibitions and State of Montana prohibitions. Based on the Forest’s GIS analysis, however, the small 5-acre McConnell Fishing Access area is open to shooting. The developed facilities and geography result in public use of this confined area year-round. The closure is necessary to ensure that no shooting occurs in the vicinity for public safety concerns.

These two year-round closures will affect a small portion, 23 acres out of approximately 24,558 acres of National Forest System lands available in the Gardiner basin, where the bison and other big game hunting occurs, but will have a large impact on improving the safety of the hunt. The Forest Service has limited the size of the closures to 23 acres though collaboration with our state, tribal, and community partners. This collaboration balanced the lowest impact to shooting opportunities while providing a heightened level of safety to hunters, neighbors, and impacted parties. This is the smallest closure area which enables the forest to balance these needs.

The Forest continues to work with its partners, tribes, the State of Montana, and community members to clarify closure area needs on National Forest System lands. In compliance with the Dingell Act, The Forest will initiate a public notice and comment process June 17, 2020, for these two year-round closures. As that process continues, the Custer Gallatin National Forest has two emergency closures in place to cover the current bison hunting season. The McConnell Fishing Access closure will also complement existing year-round federal Subpart A closures and State of Montana closures on National Forest System lands.

**CONTACT:** Mike Thom, Gardiner District Ranger, 406-848-7375 ext. 22 ([michael.thom@usda.gov](mailto:michael.thom@usda.gov));  
Marna Daley, Public Affairs Officer, 406-587-6703 ([marna.daley@usda.gov](mailto:marna.daley@usda.gov)).

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