

TESTIMONY TO THE HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE FOR INDIGENOUS PEOPLES OF THE UNITED STATES

Hearing on H.R. 5153 Indian Buffalo Management Act
Presented by Ervin Carlson, President, InterTribal Buffalo Council

INTRODUCTION AND BACKGROUND

My name is Ervin Carlson and I am a member of the Blackfeet Nation in Montana and serve as the President of the InterTribal Buffalo Council (ITBC). Please accept my sincere appreciation for this opportunity to submit testimony to the honorable members of the House Committee on Natural Resources; Subcommittee for Indigenous Peoples of the United States. I am here today to present testimony on H.R. 5153, the Indian Buffalo Management Act (IBMA), and encourage passage of this legislation to create a permanent Tribal buffalo restoration and management program within the Department of Interior. I also want to express our deep appreciation to Congressman Don Young as the sponsor of this bill, to Congressman Cole and Congresswoman Haaland as original co-sponsors and to Congresswoman Torres who has more recently co-sponsored. I hope that all members of this Subcommittee and the members of the Native American Caucus would consider co-sponsoring so that a bill can be sent to the Senate with strong bi-partisan support of Members of the House of Representatives.

Historical records indicate that in the 1840s the buffalo population in North America was estimated at 30 million and, at its peak, approximately 60 million. At the time of Christopher Columbus' arrival in the New World, approximately 7 million American Indians populated North America. During these early years, Indians and buffalo successfully coexisted and, a sacred, spiritual relationship developed between them. Indians were dependent on buffalo for food, shelter, essential tools and clothing, and the buffalo became an integral component of Indian religion.

As Indians were forced onto reservations, buffalo were slaughtered by the thousands. The U.S. military believed that if the buffalo could be eliminated, the "Indian problem" in America could be solved. A US military leader who was deeply involved in the so called Indian Wars of the Great Plains brutally stated, "If I could learn that every buffalo in the northern herd were killed, I would be glad...The destruction of the herd would do more to keep Indians quiet than anything else that could happen." This strategy was successful and, in the last three to four decades of the 1800's tens of millions of buffalo were slaughtered resulting in less than 500 buffalo remaining at the turn of the century. Concurrently, the population of American Indians was also significantly reduced to approximately 250,000 at the turn of the century. With the demise of the buffalo and the confinement of Indian Tribes to reservation lands, Indians lost their primary food source, lifestyle and independence. Sitting Bull, the great and eloquent Sioux Chief said, "A cold wind blew on the prairie on the day the last buffalo fell. A death wind for my people."

By the early 1900s, many American realized the error of trying to eliminate the buffalo. President Teddy Roosevelt played a significant role in buffalo conservation efforts in the early 1900s and then conservation began on a wider scale in the mid-1900's. By 1990, approximately 25,000 buffalo were held in public herds and approximately 250,000 buffalo were in private herds. Numerous Indian Tribes had also established small herds on Tribal lands. In 1991, approximately 10 Indian Tribes, committed to buffalo restoration with approximately 1,500 buffalo among them, organized the ITBC and approached Congress for federal funding. An early supporter was Senator Conrad Burns of Montana. In 1992, ITBC began receiving federal funding through Congressional earmarks. Sometimes ITBC was included in the President's budget and other times supported administratively but only at the discretion of whomever was in a senior position at the Bureau of Indian Affairs in any given year. With very small appropriations, and funding that was never ensured from one year to the next, ITBC has nonetheless assisted many Tribes to restore buffalo, enhance existing herds and provide necessary technical assistance.

In an effort to formalize as a national Indian organization, ITBC petitioned for and was granted a federal charter in 2009 pursuant to Section 17 of the Indian Reorganization Act. Today, ITBC is comprised of 69 federally recognized Indian Tribes in nineteen (19) states with fifty-five (55) buffalo herds. In just the last year, ITBC added the Forest County Potawatomi Community of Wisconsin, the Seminole Nation of Oklahoma, and the Sac & Fox Tribes of the Mississippi in Iowa to its membership. The member tribes of the ITBC currently have a combined population nearing one million tribal members.

For Indian Tribes, the restoration of buffalo to Tribal lands signifies much more than simply conservation of the national mammal. Tribes enter buffalo restoration efforts to counteract the near extinction of buffalo that was analogous to the tragic history of American Indians in this country. Today's resurgence of buffalo on Tribal lands, largely through the efforts of ITBC, signifies the survival of the revered Tribal buffalo culture as well as the survival of American Indians and their culture.

FUNDING HISTORY

As indicated above, ITBC has received appropriated funding since 1992 in varying amounts and through various methods including the President's budget, Congressional earmarks, or administrative action. ITBC has approached Congress annually for funding but actual allocations of funding awards have been at the discretion of the Bureau of Indian Affairs from various line items. However, the annual Congressional appropriation to ITBC does illustrate long-standing Congressional support and provides evidence that buffalo restoration and management is not a limited or one-time project but is more akin to a recurring program. Presently, ITBC enters into annual Indian Self Determination and Education Assistance Act contracts with the Bureau of Indian Affairs for Tribal buffalo restoration and management. However, this contractual relationship remains tenuous without an actual permanent buffalo program within the BIA and at times BIA officials have recommended that we seek a Congressional authorization for this program.

FEDERAL COMMITMENT TO TRADITIONAL FOOD SOURCES

Article XI of the 1868 Treaty of Fort Laramie guarantees Tribes access to buffalo “so long as buffalo may range.” The Tribes considered this language as a perpetual guarantee. Unfortunately, like many other treaty provisions, the Federal Government failed to live up to this promise. Congressional adoption of the IBMA now provides an opportunity for the Federal government to honor a commitment to American Indians to access buffalo, similar to the commitment to Tribal fish commissions. Recently, the United States Supreme Court examined the 1868 Fort Laramie Treaty and upheld Tribal off-reservation hunting rights in the *Herrera* decision.

The Federal government has had a long-standing and justifiable commitment to Tribal fish commissions and treaty fishing rights following the well-known *Boldt* decision. That federal district court case gave the fishing Tribes co-management authority over salmon with the States, access to half of the returning salmon and steelhead each year, and declared the security of Indian fishing rights was a trust obligation of the United States. This case stands for the proposition that all American Indians have a right to their traditional foods, and therefore, this ruling supports a Federal government trust responsibility to return buffalo to Tribes, in the same manner the Federal government has protected the security of Tribes to access fish.

Currently, seven fish commissions cover 52 tribes, in 12 states, that represent a population of 525,000 enrolled tribal members. ITBC represents significantly more Tribes, with a larger member base, over a much larger geographic area. Ten Tribes have memberships in both ITBC and a fish commission.

ITBC and fish commissions both seek to provide access to a traditional food source to member Tribes. However, fish commissions receive approximately 100 times (\$140,000,000) the funding from the Federal government. This funding includes the same Tribal Management/Development Program that ITBC draws its funding from. It also includes the Rights Protection Implementation Program, and the Fish, Wildlife, and Parks and Natural Resources Tribal Priority Allocation Programs within the BIA. Fish commissions also receive funding from USFWS, the Department of Commerce, and the Environmental Protection Agency. This allows a single fish commission to employ 10 times the staff and operate two additional offices compared to ITBC. We do not disparage the funds that the fishing tribes receive. It is entirely consistent with the trust responsibility owed those tribes.

INDIAN BUFFALO MANAGEMENT ACT

Adoption of the Indian Buffalo Management Act will create a permanent program within the Bureau of Indian Affairs and specifically authorize an annual appropriation. While funding will depend on annual appropriations, the IBMA will create some degree of parity with other Tribal wildlife programs. Additionally, the IBMA will solidify the contractual relationship between the BIA and ITBC, or individual Tribes should they choose to seek an ISDEAA contract. Hopefully this will eliminate our present situation where funding is so uncertain. Without funding, many current buffalo herds would undergo a devastating impact

and possibly liquidation. Years of effort to restore and develop herds could be lost as many ITBC Tribes have few alternate resources to assist with buffalo programs.

The IBMA, with an increase in current funding, will allow ITBC to provide more meaningful Tribal Herd Development Grants to create the necessary infrastructure to provide buffalo to a larger segment of the Indian community. This in turn will lead to greater self-determination and food-sovereignty opportunities for Tribes through production of their own traditional foods and creation of economic opportunities. An expansion of the Herd Development Grants will increase on-reservation buffalo related jobs, infrastructure development, range management, fence construction and repair, construction of corrals, handling equipment, and will help pay for supplemental feed. Increased Herd Development Grants will further allow Tribes to market buffalo for economic development through branding, advertising and developing enough product to meet consumer demands. Tribes, unlike off-reservation agriculture producers, have limited access to traditional financing due to limitations of utilizing Tribal trust land for collateral. Thus, without enhanced Herd Development Grants, Tribes remain at a disadvantage in herd expansion and marketing.

The Indian Buffalo Management Act will enhance ITBC's ability to serve as a meaningful partner to Federal agencies involved in buffalo management. ITBC collaborates with the National Park Service, the U.S. Forest Service, and the USDA Animal and Plant Health Inspection Service on buffalo management issues. However, this involvement is limited by a scarcity in resources. The IBMA will enhance population management through roundups and distribution of surplus buffalo to Tribes from the Badlands, Theodore Roosevelt, Grand Canyon, Yellowstone and Wind Cave National Parks. Translocation of surplus buffalo from those parks to Tribes prevents or at least reduces needless slaughter when the parks reach their carrying capacity and fulfills restoration objectives. However, ITBC and Tribal participation is often limited due to a lack of resources for transport.

The IBMA will enhance the objective to reintroduce buffalo into the diets of Indian populations to prevent and treat diet related diseases. An increase in funding will allow Tribes to have sufficient product for cultural purposes, product to sell at reasonable costs for Tribal members and product to market on a larger scale. Further, enhanced funding will allow ITBC to develop concrete evidence of health benefits that will facilitate ITBC partnerships with health programs to prevent and treat diet related diseases in Native populations.

The IBMA will reinforce on-going technical services from ITBC to Tribes, which are currently provided by a very limited staff of three people, for wildlife management, ecological management, range management, buffalo health, cultural practices, and economic development. Adoption of the IBMA will allow ITBC to enhance current training sessions (national and regional) designed to enhance Tribal buffalo handling and management.

Additionally, the IBMA will support ITBC staff educational presentations to school-age youth, tribal buffalo managers, and others. The topics of these presentations range from buffalo restoration, conservation efforts, and the historical, cultural relationship between buffalo and American Indians. Current funding limits outreach, educational efforts, and staff training.

Indian buffalo herds are grass-fed and, hormone and antibiotic free. This creates a lean final product that would fulfill a niche in meat production markets. ITBC strives to develop these markets for buffalo meat and products for interested member-Tribes at the local and national level. The IBMA would facilitate creation a centralized herd—made from the member-Tribes’ buffalo—in a centralized location to create a steady source of buffalo for markets. This herd could also be used to exchange buffalo among the member-Tribes to enhance each herd’s genetic diversity.

CONCLUSION

HR 5153, the Indian Buffalo Management Act, will further efforts to restore buffalo to Tribes on a broader scale and to establish a Tribal buffalo industry for job creation and new revenue for Tribal economies. ITBC ultimately hopes to restore Tribal herds large enough to support local Tribal health needs and achieve economically self-sufficient herds.

ITBC and its member Tribes are appreciative of past and current support from Congress and the Administration. However, I urge the Committee to adopt the IBMA to permanently create a buffalo restoration program and demonstrate Congressional commitment to Tribes to access this critical, traditional food source.

I would like to thank this Committee for the opportunity to present testimony and I invite you to visit ITBC Tribal buffalo projects and experience firsthand their successes. Questions and/or comments regarding any of the issues presented within this testimony may be directed to Mr. Ervin Carlson, President, or to Ms. Majel Russell, Legal Counsel, at (406) 259-8611.