

**TESTIMONY BEFORE THE UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS
JUNE 12, 2024
ON S. 2908, THE INDIAN BUFFALO MANAGEMENT ACT
PRESENTED BY ERVIN CARLSON, PRESIDENT
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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 present this testimony to the honorable members of the Senate Committee on Indian Affairs.

I am here today to present testimony on S. 2908, 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 want to express our deep appreciation to Senators Heinrich, Mullin, Sullivan and Tester who have sponsored this legislation. I would be remiss if I also did not thank the late Congressman Don Young of Alaska who first introduced this legislation and was able to get it through the House before he left us. We were also pleased that then Congresswoman Deb Haaland joined Don Young as the lead co-sponsor in the House.

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. For thousands of years, Indians were sustained by buffalo and, a sacred, spiritual relationship developed between them. Indians depended on buffalo for food, shelter, essential tools and clothing, and the buffalo became an integral component of Indian religion. To this day, the Pueblos in New Mexico still practice sacred buffalo dances on an annual basis.

Simultaneous to the establishment and relocation of Indians onto reservations, buffalo were slaughtered by the tens of thousands. Non-Indian buffalo hunters skinned the animals and, more often than not, sent their pelts back east for use in factories. The U.S. military also 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.”

Indians mourned the loss of buffalo and never ceased to dream of buffalo restoration for the health of Tribal members and the restoration of the land but without resources and the challenges of the new reservation lifestyle, they were unable to undertake those efforts. In contrast, President Teddy Roosevelt, William Hornaday and the American Bison Society, among others played a significant role in buffalo conservation efforts in the early 1900s followed by wider scale conservation efforts 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 InterTribal Bison Cooperative and approached Congress for federal funding. In 1992, ITBC began receiving federal funding through Congressional earmarks on a bi-partisan basis with Senator Burns of Montana and Senator Daschle of South Dakota as early supporters. ITBC has been included in the President's budget and at other times supported administratively but only as a small component in the Natural Resource or Rights Protection line item that funds a variety of other tribal initiatives. Funding occurred at the discretion of senior officials at the Bureau of Indian Affairs.

Despite very small appropriations, with no assurance of recurrence, ITBC has nonetheless assisted many Tribes to restore buffalo, enhance existing herds and provide necessary technical assistance across the twenty-two states where member Tribes are located. ITBC has grown from its origins in the Great Plains to now include Tribes from Maine to Florida, through the mid-west, Southern Plains, Southwest states, and California to Alaska. In Vice Chair Murkowski's home state of Alaska, we are very proud of the work we have done with the Alutiq Tribe at Old Harbor and our member tribe at Stevens Village in helping both establish herds. Some of the most compelling arguments for this program we have heard have actually come from our members in Alaska who point out that when Native Villages are reliant on subsistence hunting and successful hunts cannot be assured, that it is critical that those Villages have access to an alternative source of protein. This is a food security argument in its most basic form. Our most recent deliveries of buffalo were to the Peoria Tribe in Oklahoma and the Taos Pueblo in New Mexico. Every single tribe in Montana, North and South Dakota are members of the ITBC, and we have assisted each of them with live buffalo, or funding for fencing, supplemental feed, water systems or technical support. Of course we have undertaken similar efforts in many other states.

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 now comprised of 83 federally recognized Indian Tribes in 22 states with over 60 buffalo herds. In recent years, ITBC membership has grown by about 5 Tribes per year expanding the total number of Tribal members served to over one million.

Tribal buffalo restoration to Tribal homelands 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 successful reintroduction of buffalo to Tribal lands, largely through the efforts of ITBC, signifies the resurgence of the revered Tribal buffalo culture and exemplifies the resilience of the American Indians and their culture.

AUTHORIZATION VERSUS FUNDING

We have been asked why an authorization would best serve ITBC rather than -only relying on continued annual appropriations. First, when Congress endorses a program that authorization both sends a message and likely enhances recurring appropriations specifically for the program. Some conservatives even argue that programs must have an authorization in place before appropriations should be allowed. Congress has authorized numerous statutes over the years to address and guide particular Indian Affairs issues. Just a few examples would include the Tribal Law and Order Act, the Indian Child Welfare Act, the Native American Graves and Repatriation Act, the Indian Dam Safety Act, the Indian Employment and Training Act, the National Indian Forest Resources Management Act, the Treaty Fishing Site Access Act, ANILCA, legislation dealing with Hoopa fisheries and Metlakatla fisheries, etc. etc. The list is literally pages long. While the Administration could have used the broad Snyder Act to create programs to address these various Indian affairs issues and did not, Congress properly adopted statutory authorizations. Since the federal government played a key role in the near extinction of the buffalo, Congressional action to re-establish herds and fund management activities is reasonable and appropriate.

As indicated above, ITBC has received appropriated funding since 1992 in varying amounts, but actual annual allocations have remained stagnant for many years. However, the annual Congressional appropriation to ITBC does illustrate Congressional support for buffalo restoration and management from a limited or one-time project to a recurring program despite no equivalent BIA program. Presently, ITBC enters into annual Indian Self Determination and Education Assistance Act contracts with the Bureau of Indian Affairs for restoration and management activities. However, this contractual relationship remains tenuous without an actual permanent buffalo program within the BIA and various BIA officials have recommended that a Congressional authorization for this the buffalo program would justify appropriations. Assistant Secretary Tara Swaney was one of key DOI leaders who discussed with us the benefits of a permanent authorization.

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. This right to hunt supports a right of access to traditional food sources.

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 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 approximately 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. The Tribal Management/Development Program (that also funds ITBC), the Rights Protection Implementation Program, and the Fish, Wildlife, and Parks and Natural Resources Tribal Priority Allocation Programs within the BIA all fund the fish commissions. Additionally, the fish commissions 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 remotely disparage the funds that the fishing tribes receive. It is entirely consistent with the trust responsibility owed those tribes. However, ITBC seeks some parity as it has the challenge to restore buffalo in contract with the right to co-manage an existing resource.

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 should 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. With meaningful funding, we will be able to help our members who are still working toward the reestablishment of buffalo herds on their lands and move toward the goal of establishing self-sustaining herds and a role in the tribal buffalo industry that will create jobs, feed tribal populations and provide economic opportunities to Tribes.

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

S. 2908, 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, we 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 again 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, to Ms. Majel Russell, Legal Counsel, at (406) 259-8611 or the ITBC Offices at (605) 394-9730.