

**WRITTEN TESTIMONY TO THE
UNITED STATES SENATE COMMITTEE ON INDIAN AFFAIRS
THE HONORABLE BEN 'KNIGHTHORSE' CAMPBELL, CHAIRMAN
June 3, 2003
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NATIVE AMERICAN FISH & WILDLIFE SOCIETY**

Mr. Chairman and Distinguished Committee Members:

My name is Ira New Breast, Executive Director of the Native American Fish and Wildlife Society (Society) and an enrolled member of the Blackfeet Tribe of Montana. I would like to respectfully thank you for the opportunity to present written testimony to the Senate Committee on Indian Affairs and speak to you on the development of the Native American Fish and Wildlife Management Act (NAFWMA).

The Society is a national non-profit organization established in 1982 by Tribal, leaders, fishery and wildlife biologists, conservation law enforcement officers, land use managers, planners, and a broad array of fish and wildlife technical specialists. The Society serves as a platform, from which Tribes can network on a wide-range of national, regional, area, and local topics. The organization offers federal, state, tribal and international governments, as well as private organizations and general public, to share formal and informal information surrounding fish and wildlife issues. The Society is dedicated to the sound management and prudent use of Tribal fish and wildlife resources, and accomplishes this through charitable; training opportunities, assembly, technical coordinate assistance, education, administrative counsel support, circular publications and internet media. As Tribes recognize themselves as sovereign governments operating in perpetuity, the Society embraces its role to provide assistance for the interminable future.

Through the Society membership the organizations relationship with Tribes is intrinsic and is imbued with a unique national perspective, insight particular to the Society reflects many of the basic fish and wildlife program needs common to Tribes throughout Indian country. The Society as a organization is not a substitute for Government-to-Government relationships with Tribes, it cannot speak for a Tribe/s, not all Tribes participate within an organization, but because of our intimate relationship we are logically equipped to report knowledgeably on the challenges, barriers, obstacles and impediments facing Tribes as they strive to develop and sustain fish and wildlife management programs.

The Intent of this testimony is to draw your attention to an important area of oversight and unmet needs, the scope of which is vital to Tribal efforts to realize sustainable tangible management practices for their fish and wildlife natural resource. It is our hope that your findings from our testimony and the testimony of the other distinguished speakers will justly and morally lead you to the conclusion that the enactment of the NAFWMA is necessary to ensure the future of fish and wildlife resources for Tribes and the general American public.

It is a complex undertaking to expect all members of congress to completely embrace and value the cultural, spiritual and historic connection to the resource that forms the basis and foundation of each Tribes management efforts. Indeed, each Tribe is unique, yet in general there is a fundamental harmonized regard for the resource. It is these connections that form the basis for Tribal resource management decisions, which strives to balance resources for "future

generations" and provide for current optimum Tribal interests. It is then your discretion, and our entreat, to ask that congress objectively concede this as a valid factor of critical importance in weighing the development of the NAFWMA for America's Tribes.

The Federal Indian trust responsibility is a legal duty on the part of the United States to protect Indian land and resources, fulfill treaty, Congressional agreement and executive order obligations, and carry out mandates of Federal/Judicial law for the benefit of American Indians and Alaska Natives. No less than international and other domestic duties. Congresses highest trait exemplifies the good American conscience, Tribes rely on your honest willingness to champion and bond your actions to edicts of this land but also to rest your fortitude on the words of good intent. In this era of expanding international leadership and responsibilities for the country, what better way to build international confidence than by demonstrating excellence in the overall treatment of indigenous domestic sovereigns. In the face of mounting energy and resource use, and to address solutions, express an example of the best commitment to the environment by enacting this legislation which ensures quality standards and integrity of management for present and future resource needs. Indian country's interest in the environment is embodied, inherent and evident, our fellow Americans dearly share this interest in their own valid way. As the country and world exorbitantly consumes it is prudent for our leaders to invoke measures that unite all efforts to provide a future of quality environmental resource standards and presence.

Protection of tribal trust resources is the cornerstone of the federal Indian trust responsibility. The majority of tribal conservation activities are contracted directly by tribes from the federal government, under authorization of the Indian Self-Determination and Education Assistance Act of 1993 (ISDEA, P.L. 93-638). Funding under the ISDEA, either by direct service contracts with the BIA or through Self-Governance agreements, provides the base from which tribes manage their natural resources. Unfortunately, this funding has shrunk by more than 20% in the last five years. This is due primarily to a massive cut made by Congress in 1996 to the portion of the BIA budget which goes to tribes to provide services to their members (known as the Tribal Priority Allocations account). Subsequently, additional congressional cuts have occurred almost yearly, coupled with congressionally mandated rerouting of funds to "people based" service programs. The result has been severe reductions in Tribes ability to protect their cherished natural resources. Each Tribe that seeks federal funding for projects or programs out of the scope and policy of agency funding must petition directly to the Senate and House Appropriation Committees. This avenue is generally beyond the financial and resource scope of Tribal Fish and Wildlife capabilities.

A compelling difficulty for Tribes struggling to develop and sustain fish and wildlife programs is that authorizing language for the wide assortment of federal conservation programs largely fail to include Tribes as eligible to participate. One classic example is the Federal aid in Fish and Wildlife restoration and Recreation legislation, commonly known as Pittman-Robertson, Dingle-Johnson and Wallop-Breaux. These authorized levies of excise taxes proceed approximately \$450 million annually to states, territories and the District of Columbia. Native American populations, Indian land masses, and Indian water bodies are used to inflate formula factors that decide allocations, and Native Americans pay the taxes. Taxation without representation plays a role here. Native Americans appreciate better than most the burden that states face in funding fish and wildlife management, equity at the cost of the resource is not our strategy or intent, rather we call attention to the unfair injustice and await our trusted leaders

resolve. The Endangered Species Act (ESA), Section six is absent of language affording Tribes a means of capacity to manage their resident endangered species or species of concern. Over 30 ESA animal species and numerous plant species fall within the jurisdiction of Tribes. Current federal agency resources fall short of filling the management gap of need, and more than often play an obstructive compliance role in the economic development activities of poverty stressed Tribes. The NAFWMA would greatly assist the United States to offset these shortfalls and ensure the integrity of the resource designed for protection and management.

An important issue is the encroachment of states on the jurisdiction of the Tribes in all areas of government activity, which also includes fish and wildlife authority. The Tribes look to you the Congress to preserve and fairly protect our interests. The factors leading to state infringement on Tribal lands and interests are many; at the core is a misled understanding of funding processes and allocations, a long history of miss-understanding and subjugation of Indian culture and society, and a failure to embrace and acknowledge the special trust commitment made by this countries great fore-fathers and their contemporaries. It is erroneous for state leaders and state civil resource employees to assume that their attempt to have controlling authority over Indian Lands will bring about solutions that will satisfy the State citizenry, the state tax payers. Any new burden of authority for the states on Indian lands will be paid for by the states residents, in state taxes, states easily overlook the special relationship Native Americans have with the law of the land. Congress, do your constituents know that their state governments are leading them down this one way endless financial road of commitment? It is in the American Peoples interest to protect Native American, Alaska Native Interest from states unfair encroachment. One demonstrative method is to enact the NAFWMA to ensure Tribes capacity to manage their resource for the benefit of the environment and all American people.

Federally recognized Indian Tribes within the lower 48 states have jurisdiction over a reservation land base of over 55 million acres, or 85,938 square miles. Alaska native lands comprise another 45 million acres. Additionally, some tribes control resources outside of their reservations due to federal court decisions and voluntary cooperative agreements that allow a co-management status between tribes and states. These lands are called ceded and usual and accustomed areas and equal over 38 million acres. In these areas, tribes maintain co-management jurisdiction for fisheries and wildlife management and utilization. Thus, tribal lands coupled with the ceded, usual, and accustomed areas total a natural resource base of over 140,625 sq. miles, containing more than 730,000 acres of lakes and over 10,000 square miles of streams and rivers. Thus, if all Native American owned land were combined, it would constitute the fifth largest state in the U.S.

In Indian Country, each Tribe functions as a distinctively unique Governmental, Political, Social and Cultural entity operating on a government to government basis nationally and internationally. The language describing a Treaty, Congressional Legislation or Agreement, Executive Order, and Supreme Court Statute is unique to each Tribe and molds the governing nature of each individual Tribes distinctive system of governance and authority. The contemporary culture of each Tribe is as autonomous today as it was in the past, distinctive and independent. Native Americans are unique in Tribal and individual heritage and are collectively unique as an intergraded ethnic group. On the surface, facilitating the interests of a wide range of individual Tribes may appear daunting. In practice, once embraced the diversity and

distinguishing richness of Native American cultures offers an extraordinary meaningful experience.

Indian Reservation lands are diverse in habitat and represent many of the fish and wildlife species that naturally occur in the lower United States. Many species listed within the Endangered Species act and many species of special concern are present throughout Indian Country. The various habitats that support the game populations are extensive and persist in a pristine state throughout most of Indian Country. Stressed economies at poverty levels have had the effect of safeguarding the habitats against development and destruction. As a result an extensive faunal presence can be found throughout Indian Lands.

Typically, Indian Lands are adjoined by a variety of jurisdictions in rural settings. Tribes and other managing authorities recognize the importance of cumulative eco-system management. Playing an effective management role in the immediate and surrounding environmental community is recognized as a necessity to ensure the best interest of the fish and wildlife resource, a resource that does not recognize boundaries or jurisdictions.

The challenges of the past continue to confront Tribes today, where Tribes maintain a grassroots identity inherently close to its own needs. Fundamental conservation management practices enhance the potential for immense resource growth. Through the implementation of optimum management practices for the fish and wildlife, the best Tribal and associated resource interest can be achieved.

One role for the proposed legislation is to further encourage the establishment and continuation of Tribal fish and wildlife codes and programs. Tribes of the United States function at different developmental levels of fish and wildlife management. A number of Tribes find it difficult to institute fish and wildlife programs because of a combination of economic and political barriers. Other Tribes have well established successful programs with scientific, administrative and law enforcement capacity. Funds for successful programs are made available through federal legislation, litigation, mitigation, executive order, agreement, or contract/grant. Other Tribes operate programs that rely primarily on the Tribes general fund or revenues generated by their hunting and fishing permitting process, where the size and scope of operations are proportional to the amount of permitted services available or utilized.

Among the challenges Tribes face, they must contend with two common misconceptions, one is that Tribes are federally funded throughout their needs, and the other is that Indian Casinos serve every Tribe and their needs. This is not true.

Tribal programs of low capacity consist of one or more Conservation officers enforcing Tribal and Federal codes. Technical management is provided through limited levels of assistance by the US Fish and Wildlife Service, Bureau of Indian Affairs and other federal agencies. For most State agencies fish and wildlife assistance to Tribes is not common because of jurisdiction and in-state limited and/or priority department management funds.

At times, private organizations supplement Tribal management efforts. This is infrequent as private management assistance is either governed by current organizational policy and requires a match of purpose, mission or funds with that of a Tribe before dedicated funds can be considered, or private organizations may not have an awareness or relationship with Tribes to feasibly assess and render potential services.

Although limited, current grants and contracts play a needed role in project work. The problem is pre-determined fish and wildlife management funds are a complicated maze and the process is not equipped to accumulatively meet many areas of a Tribe's management needs.

Compliance with grants and contracts can burden a Tribes overall operational resource and be time consumptive.

Tribal fish and wildlife management needs are straightforward. Fundamentally they are a combination of capable personnel supported by proficient resource capitol driven by a clear objective and purpose that encourages the affected public and governing body to embrace and support the best interests of all current and future aspects of the fish and wildlife resource.

Tribes have a large need to gain an understanding of fundraising and communicate awareness of their needs to the general public. Internally, Tribes, Indian organizations and fundraising affiliates can facilitate grant writing proficiency and teach methods of donor participation. Support to create capacity in this important area is necessary .

Training needs involve biological technical capability, law enforcement, educational, administrative, and an understanding of marketing services. Contracting and obtaining training instruction services figure as a prominent challenge. Training location bears importantly on a Tribes ability to participate as travel costs can impede attendance. The frequency of available training, and level of training (i.e. beginner, intermediate, & advanced) are factors among experience of needs.

Tribal fish and wildlife programs have frequent major capitol asset turn over which is typically difficult to address under Tribal budget allocations. Resource supplementation assistance is essential to ensure basic operations capabilities. Miscellaneous operational needs of support equipment and material (i.e. Office supplies, firearm ammunition, handheld radios, GPS units, publication capabilities, internet, bullet proof vests, uniform/work clothes, gasoline, maintenance...) are periodic ancillary logistical forms of aid that allow Tribal capacity.

Information dissemination is a essential need of Tribes. Intertribal information publications and literature production play a vital role to network and generate awareness through building bridges, cooperatives and partnerships. Tribes can benefit from the sincere interest held by the general public and their ability to champion the needs of the fish and wildlife resource.

A comprehensive fish and wildlife data inventory and survey of bio-diversity and human resources in Indian country is a crucial Tribal need to assess and measure achievements and target areas for maximum effect.

Programs that facilitate Indian Bison Conservation and management is dearly needed. Tribes see buffalo as a fundamental wild resource, basic to contemporary existence and among the cumulative fishery and wildlife needs of Tribes.

The Native American Fish and Wildlife Management Act is a long awaited measure that will conscript funding and impart legal process to Tribes as they realize development and sustainable fish and wildlife conservation for the benefit of the resource and the people of Indian Country and the United States.

Tribes rely on the strength of Congress to exercise legislative authority to ensure natural resource interests, and to protect Tribes from unjust exterior pressures, and eliminate disparities, where do we go if you cannot prevail for us? Much of our hope and ways of life to enjoy our natural destinies dutifully rests with this body.