

House of Representatives
House Agriculture Committee
Honorable Lee Randall, Chairman
Christy Clark, Vice-Chair
Kathleen Williams, Vice-Chair
63rd Montana State Legislature
Capitol Building
Helena, MT

January 22, 2013

RE: House Bill 249; LC1105 by request of Alan Doane

Sponsor: Alan Doane

Short Title: **Revising Laws Related to Presence of Bison/Buffalo on Private Property**

Good Morning Mr. Chairman and the Committee,

My name is Shane Morigeau, and I am here on behalf of the Confederated Salish and Kootenai Tribes. The Confederated Salish and Kootenai Tribes strongly oppose HB 249 because it is an unnecessary bill designed to address an issue the courts have already thoroughly examined.

HB 249 would allow private landowners the ability to shoot buffalo on site without having to make a good faith effort to notify Fish, Wildlife and Parks. This essentially lowers bison to the status of vermin and goes against current management efforts of Tribal, State and Federal authorities.

Currently, there are measures in place and cooperative agreements intact to balance both preservation and livestock interests. Tribal, state, and federal agencies are all working together to manage bison in Montana. The management process in place is currently working. This bill attempts to circumvent all of the hard work and relationships that have been developed to manage bison in Montana.

As of 2000 (at the time the Interagency Bison Management Plan (IBMP) started), there have been no documented transmittals of brucellosis to cattle. Even if there was a potential threat in existence, the absence of any documented instance of transmittal is a testament to the effectiveness of the current management scheme. Allowing landowners to shoot on site is, at best, an overbroad means of protecting private property.

This is an unnecessary bill and in direct contravention of what the courts have already stated. The Sixth Judicial District Court of Montana addressed this issue on January 7 of this year and quoted a 1940 Montana Supreme Court statement which stated that: “[w]ild game belong to the state in its sovereign capacity[.]”¹ Further, “Montana is one of the few areas in the nation where wild game abounds. It is regarded as one of the greatest of the state’s natural resources, as well as the chief attraction for visitors. Wild game existed here long before the coming of man. One who acquires property in Montana does so with notice and knowledge of the presence of wild game and presumably is cognizant of its natural habits. . . . Accordingly, a property owner in this state must recognize the fact that there may be some injury to property or inconvenience from wild game for which there is no recourse.”²

A Montana court stated this both in the 1940’s and two weeks ago. This bill is an attempt to fix something that isn’t broken. There is a management plan in place that has been successful striking the delicate balance among preservation, livestock, and property interests. We live in a state, and wildlife is a fundamental part of living in this state, and this legislature must not allow this delicate balance of interests to be destroyed simply by a landowner with a gun.

The CSKT strongly oppose this bill, as it would inappropriately circumvent the government’s authority to manage bison by giving private landowners the discretion to eliminate bison at will. The bill would remove Fish, Wildlife and Parks from serving as stewards of the bison and would require them to bear the expense of disposing of the carcasses resulting from indiscriminate shooting of bison. The costs will ultimately fall on the

¹ *Park County Stockgrowers Ass’n, Inc. v. Montana Dep’t of Livestock*, p. 61, Final Order and Judgment on (Amended) Joint Petition, Jan. 7, 2013, Cause Nos. DV 11-77 and DV 11-78 (quoting *State v. Rathbone*, 110 Mont. 225, 238, 100 P.2d 86, 91 (1940)).

² *Park County Stockgrowers Ass’n, Inc. v. Montana Dep’t of Livestock*, p. 61, Final Order and Judgment on (Amended) Joint Petition, Jan. 7, 2013, Cause Nos. DV 11-77 and DV 11-78 (quoting *State v. Rathbone*, 110 Mont. 225, 238, 100 P.2d 86, 91 (1940)).

taxpayers for clean up of killed bison. If passed, HB 249 would set dangerous precedent in Montana – essentially opening the door to the killing of all wildlife that comes onto private property. Wildlife in this state is a public trust that should not be subject to lethal removal by a landowner that is bothered by a species. If this bill is allowed, where would the killing of wildlife end? We fully support FWP in their current management efforts. The CSKT oppose this bill and ask this committee to vote no on this bill. Thank you.



Shane Morigeau
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