

108TH CONGRESS
1ST SESSION

H. R. 3446

To provide for the protection of the last remaining herd of wild and genetically pure American buffalo.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 5, 2003

Mr. HINCHEY (for himself and Mr. BASS) introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide for the protection of the last remaining herd of wild and genetically pure American buffalo.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. YELLOWSTONE BUFFALO PRESERVATION.**

4 (a) SHORT TITLE.—This section may be cited as the
5 “Yellowstone Buffalo Preservation Act”.

6 (b) FINDINGS.—Congress finds the following:

7 (1) More than any other animal, the American
8 buffalo (*Bison bison*) is a wildlife icon of the United
9 States. The American buffalo is the symbol that rep-
10 resents the Department of the Interior. The Amer-

1 ican buffalo is profoundly significant to Native
2 American cultures and, perhaps more than any other
3 wildlife species, has influenced our history.

4 (2) The American buffalo is still under assault,
5 as it was in the late 19th Century when it was near-
6 ly exterminated. At the end of the great slaughter,
7 in which tens of millions of buffalo were killed, only
8 a few hundred wild buffalo remained in the Nation
9 and all were located in Yellowstone National Park.
10 Due to poaching, their numbers were reduced to 25
11 by the year 1900.

12 (3) The offspring of the 25 survivors comprise
13 the Yellowstone buffalo herd and are the only wild,
14 free-roaming American buffalo to continuously oc-
15 cupy their native habitat in the United States.

16 (4) The Yellowstone buffalo herd is genetically
17 unique. Unlike captive ranched buffalo, which are
18 now relatively common, the Yellowstone buffalo herd
19 has never interbred with cattle and has retained its
20 wild character.

21 (5) Because the Park lacks extensive low-ele-
22 vation winter habitat that provides bison and elk
23 with access to winter forage, wildlife migrate from
24 the high elevation plateau of Yellowstone National

1 Park to lower elevation habitat adjacent to the Park
2 in winter and spring.

3 (6) The Yellowstone buffalo herd was exposed
4 to the bacterium *Brucella abortus*, which can cause
5 the disease brucellosis, in 1917. Brucellosis is only
6 transmitted through animal ingestion of contami-
7 nated reproductive products. Brucellosis can cause
8 abortions in infected animals, but only infectious fe-
9 males who have the bacteria in their reproductive
10 system represent any potential threat of trans-
11 mission. The risk of transmission between wild buf-
12 falo and cattle was deemed low in a 1992 General
13 Accounting Office report, and again in a 1998 Na-
14 tional Research Council study. In fact, there has
15 never been a confirmed incidence of brucellosis
16 transmission in the wild from buffalo to cattle. Buf-
17 falo with brucellosis and cattle have grazed together
18 for over 50 years in the Jackson Hole area south of
19 Yellowstone without any incident of disease trans-
20 mission. Despite these facts, the National Park
21 Service, the United States Forest Service, and the
22 State of Montana Department of Livestock have,
23 capture, and kill members of the Yellowstone buffalo
24 herd in an attempt to keep them unnaturally con-
25 fined within Yellowstone National Park. At the same

1 time, approximately 13,000 Yellowstone elk, some of
2 which also harbor brucellosis, are allowed unfettered
3 access to Federal land outside the Park. Since 1984,
4 nearly 3,700 American buffalo have been killed in
5 Montana as a result of this policy. In the winter of
6 2002–2003, 244 buffalo were killed by the Federal
7 and State agencies, including 231 buffalo which
8 were captured and slaughtered by the National Park
9 Service.

10 (7) The key lower elevation habitat needed by
11 American buffalo is primarily on Gallatin National
12 Forest lands adjacent to the north and west sides of
13 the Park. On the north side, taxpayers spent
14 \$13,000,000 in 1999 for a private–Federal land ex-
15 change intended to make low elevation habitat adja-
16 cent to the Yellowstone River accessible to the Yel-
17 lowstone buffalo herd and other wildlife. The land
18 exchange has not yet been finalized by Federal agen-
19 cies and therefore key habitat is not available to the
20 Yellowstone buffalo herd.

21 (8) On the west side of the Park, the Horse
22 Butte peninsula provides prime wildlife habitat for
23 grizzly bears, trumpeter swans, bald eagles, wolves,
24 and buffalo. The peninsula comprises approximately

1 10,000 acres of primarily Gallatin National Forest
2 Federal lands extending into Hebgen Lake.

3 (9) National Park Service lands have been set
4 aside for the conservation of resources and values
5 and for the enjoyment and use of all citizens. The
6 Federal lands adjacent to the Park represent some
7 of the most valuable and important wildlife habitat
8 in the lower forty-eight states. They are integrally
9 connected to the health of wildlife residing season-
10 ally in our Nation's oldest national park. Together,
11 the Park and the adjacent Federal lands provide
12 some of our Nation's richest opportunities for recre-
13 ation, wildlife viewing, family camping, wildlife con-
14 servation, fishing, and other recreational and sport-
15 ing activities. These Federal lands should be pref-
16 erentially managed to sustain this rich and diverse
17 wildlife resource and to provide the public with en-
18 joyment of this National treasure.

19 (c) PURPOSE.—The purpose of this Act is to provide
20 for the protection of the Yellowstone buffalo herd by allow-
21 ing the Yellowstone buffalo herd to freely roam Federal
22 lands outside of the Park. The Federal lands that are af-
23 fected by this Act are those within the Park and adjacent
24 to it on the north and west boundaries as indicated by
25 zones 2 and 3 on the Modified Preferred Alternative Map

1 on page 181 of the 2000 Bison Management Plan for the
2 State of Montana and Yellowstone National Park Final
3 Environmental Impact Statement.

4 (d) DEFINITIONS.—For the purposes of this section,
5 the following definitions apply:

6 (1) HAZING.—The term “hazing” means any
7 individual effort to drive away, obstruct, chase,
8 scare, or deter natural movements of wildlife, includ-
9 ing hazing efforts carried out on foot or horseback
10 or efforts aided by machinery, aircraft, or any type
11 of noise-making device.

12 (2) INDIVIDUAL.—The term “individual” means
13 any person representing a State or Federal Govern-
14 ment.

15 (3) PARK.—The term “Park” means Yellow-
16 stone National Park.

17 (4) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 (5) YELLOWSTONE BUFFALO HERD.—The term
20 “Yellowstone buffalo herd” means the wild, free
21 roaming, unfenced buffalo living primarily within
22 Yellowstone National Park.

23 (e) PROHIBITED ACTS; CRIMINAL PENALTIES.—

24 (1) PROHIBITED ACTS.—No individual may kill,
25 haze, or capture any buffalo on Federal land or land

1 held under Federal conservation easements or use
2 any form of bait to lure buffalo from any Federal
3 land onto private land until the duties under sub-
4 section (f) are carried out.

5 (2) PENALTIES.—

6 (A) INITIAL VIOLATION.—Any individual
7 found to be in violation of paragraph (1) for the
8 first time shall be fined not more than \$5,000
9 or imprisoned not more than 1 year or both.

10 (B) SUBSEQUENT VIOLATIONS.—Any indi-
11 vidual found to be in violation of paragraph (1)
12 after the first such finding shall be fined not
13 more than \$10,000 or imprisoned not more
14 than 2 years or both.

15 (C) REWARD.—One half of any fine col-
16 lected under this subsection or \$2,500, which-
17 ever is less, shall be paid to any person or per-
18 sons giving information which leads to convic-
19 tion of a violation of this subsection.

20 (D) EXCEPTION.—This subsection shall
21 not apply to a person that is found to have been
22 hazing a buffalo if the person is physically en-
23 dangered or private property was damaged by a
24 buffalo.

1 (f) DUTIES.—The Secretary and other appropriate
2 Federal agencies shall ensure that the following is accom-
3 plished not later than 3 years after the date of the enact-
4 ment of this Act:

5 (1) The Yellowstone buffalo herd is allowed to
6 freely roam the Park and the Federal lands adjacent
7 to Yellowstone National Park on the north and west
8 boundaries as indicated by zones 2 and 3 on the
9 Modified Preferred Alternative Map on page 181 of
10 the 2000 Bison Management Plan for the State of
11 Montana and Yellowstone National Park Final Envi-
12 ronmental Impact Statement without being hazed.
13 These lands shall be made available preferentially
14 for buffalo and wildlife use.

15 (2) Management authority of the Yellowstone
16 buffalo herd within the Park is under the sole juris-
17 diction of the National Park Service.

18 (3) The land exchange described in section
19 1(b)(7) with the private property owner has been fi-
20 nalized, as set forth in the agreement executed in
21 1999, so that the Yellowstone buffalo herd may free-
22 ly roam the lands described in paragraph (1).

23 (4) The National Park Service has disassembled
24 the Stephens Creek Buffalo Capture Facility.

1 (5) The Secretary has made every effort prac-
2 ticable to allow the Yellowstone buffalo herd to free-
3 ly roam Federal lands through incentives and coop-
4 erative efforts with adjacent private landowners, in-
5 cluding through acquisition, easement, cattle vac-
6 cination, and landowner agreement pertaining to
7 temporal and spatial separation of livestock from the
8 Yellowstone buffalo herd.

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