



## **BUFFALO FIELD CAMPAIGN**

P.O. BOX 957 WEST YELLOWSTONE, MONTANA 59758

(406) 646-0070 PHONE (406) 646-0071 FAX

<http://www.buffalofieldcampaign.org>

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Chairman Kelly Flynn and members of the House Fish, Wildlife, and Parks committee  
Montana House of Representatives  
PO Box 200400  
Helena, MT 59620-0400

### **BUFFALO FIELD CAMPAIGN COMMENTS ON HB 495 – DO NOT PASS**

Mr. Chairman and members of the House Fish, Wildlife, and Parks committee,

On behalf of Buffalo Field Campaign I am submitting testimony on HB 495. Mr. Chairman, I request that my testimony be entered into the hearing record. Thank you.

HB 495 mandates Montana Fish, Wildlife & Parks post a \$5,000 bond for each wild buffalo sold or transferred by the Department of Livestock under MCA 81-2-120 and released, transplanted or allowed under MCA 87-1-216.

HB 495's requirement for the posting of a \$5,000 bond for each wild buffalo affected is "to insure the payment of damages caused" to public and private property on public and private lands "where the presence of the animal is not authorized."

By establishing Fish, Wildlife & Parks' liability for the behavior and acts of wild buffalo an uncertainty is raised in how HB 495 impacts Montana's eligibility to participate in the Wildlife and Sport Fish Restoration program. Impairment of Montana's eligibility to participate in the restoration program is a question for the committee.

Why is a legislative exception being carved out of long held precedent in Montana to make the state liable for damages caused solely by wild buffalo?

Will the legislature next propose that owners of fruit trees be compensated for the fruit taken by migratory birds?

HB 495 begs the question: should the state of Montana be held liable for all of the grass eaten by native rabbits in a livestock rancher's field?

HB 495 would have you ignore and go along with undermining long-held Montana Supreme Court precedent finding that wildlife species do not "belong to any owner" and the state cannot be held liable for acts or the behavior of wildlife. (Please see BFC's attached HB 495 handout on Montana and U.S. court precedent on this issue).

In *Rathbone v. Montana* (1960) the Montana Supreme Court found that a property owner in Montana:

"... must recognize the fact that there may be some injury to property or inconvenience from wild game for which there is no recourse."

This long-standing precedent was recently affirmed in *Park County Stockgrowers Association v. Montana* (2013) by Judge E. Wayne Phillips who wrote:

"Montana's Constitution contains no provision safeguarding against threats to personal safety caused by naturally occurring conditions such as native wildlife. To the contrary, Montana's Constitution, laws, and regulations provide special considerations to assure that our wild places and the creatures that inhabit them are preserved for future generations."

HB 495 is not a win-win bill. If HB 495 is adopted into law, liability of damages for acts of wild buffalo will be a liability imposed on Montanans in perpetuity.

HB 495 is not amendable. We encourage the committee to not pass HB 495. Thank you for your consideration.

Daniel Brister, MS  
Executive Director  
Buffalo Field Campaign  
PO Box 957  
West Yellowstone MT 59758  
Phone: (406) 646-0070  
Fax: (406) 646-0071  
Email: [bfc@wildrockies.org](mailto:bfc@wildrockies.org)



## **About Buffalo Field Campaign**

Buffalo Field Campaign was founded in 1997 to protect the natural habitat of wild migratory buffalo and native wildlife, to stop the slaughter and harassment of America's last wild buffalo as well as to advocate for their lasting protection, and to work with people of all Nations to honor the sacredness of the wild buffalo.

Buffalo Field Campaign is located in West Yellowstone, Gallatin County, Montana, and is supported by volunteers and citizens in Montana, Idaho and Wyoming, and by people from around the world who value America's native wildlife and the ecosystems upon which they depend, and enjoy the natural wonders of our irreplaceable public lands.

As an organization and on behalf of our members, Buffalo Field Campaign is deeply concerned and actively involved in protecting the last remaining descendants of indigenous buffalo in North America to occupy their original range.

Buffalo Field Campaign publicizes the plight of the buffalo, works to end their slaughter by government agencies, and advocates for the long-term protection of viable populations of wild buffalo and year-round habitat.

Buffalo Field Campaign actively engages the American public to honor and protect our cultural heritage by allowing wild buffalo to exist as an indigenous wildlife species fulfilling their ecological role on their native landscape.

Buffalo Field Campaign volunteers patrol habitat where buffalo migrate within the Yellowstone and Madison River drainages. These direct experiences with buffalo on their native habitats inform our actions and strengthen our commitment to gaining permanent protections for America's last wild buffalo.