

## The American Prairie Reserve And Buffalo Restoration

Jim Posewitz 1/20/2020

In a recent Op Ed piece, the United Property Owners of Montana was critical of a public non-profit organization's effort to restore buffalo to the Northern Plains. The outburst of criticism was triggered by a long overdue rule by Montana Fish, Wildlife, and Parks' setting up a planning process to allow for wild bison in Montana under strict conditions. This project is worth our attention, since our country is one of the few on earth where: wildlife is a public resource; the bison is the national mammal; and American Prairie Reserve (APR) is an excellent example of the American conservation ethic.

Fist, a bit of history. The British Empire settled the Colonies under royal authority. King Charles II of England made a massive land grant to his brother James. That grant, to a single person, included: "... *marshes, waters, lakes, fishings, hawkings, huntings and fowlings.*"

This control from "mother England" was challenged in 1776 with the American Declaration of Independence. Ownership of fish and wildlife in the new land was left to be decided by custom and the American court system. Sixty-six years later, the U. S. Supreme Court ruled "... *the prerogatives ... which before belonged ... to the crown ..., became immediately and rightfully vested in the state.*"<sup>1</sup> The ownership of wildlife became more specific when addressed in a later case, when the Court ruled that the power over wildlife held by the states: "... *is to be exercised .... as a trust for the benefit of all people, and not ... for the benefit of private individuals as distinguished from the public.*"<sup>2</sup>

In summary, wildlife in America is a public resource anchored in our Declaration of Independence and delivered to our generation through the court system, defined as a public trust. The same document that declared all men to be free and equal, also declared that we would all share the fish and wildlife of the American commons.

---

<sup>1</sup> 41 U.S. 367 (1842).

<sup>2</sup> 161 U.S. 519 (1896).

At times, our public trustee was negligent in stepping up to the responsibility to protect our wildlife resource and citizens formed non-profit conservation organizations to fill the gap. With buffalo, it was quite dramatic. In 1876, unrestrained commercial extremists shipped 80,000 buffalo hides down the Missouri River from Fort Benton alone. Eight years later, those shipments dropped to zero and a handful of the last wild buffalo remained in Yellowstone Park. Montana was the wildlife boneyard of North America.

At the time, a young New York legislator came west with the dream of hunting a wild buffalo. He searched for days before finding and killing a lone bull on Little Cannonball Creek, Montana. He hunted through carcasses, stripped of their hides and tongues left to decay, by private commercial interests. The hunter was Theodore Roosevelt and in 1887 he, and a handful of East Coast patricians, formed a national non-profit for the introduction of the sporting code and restoration of big game – the Boone and Crocket Club. Through the years, other citizen groups, like Ducks Unlimited and the Montana and National Wildlife Federation joined the effort. To this day, conservation groups like American Prairie Reserve, form to achieve what our public trustees are slow or fail to bring forward.

As a result of citizen participation, we enjoy an abundance of wildlife only imagined when the 19<sup>th</sup> Century closed. When Roosevelt served as president, there were an estimated 5,000 elk in Montana. Today, there are at least 150,000. Only wild buffalo were left behind as our conservation saga unfolded. To bring wild bison home, we must support all appropriate courses of action. On one hand, the new Montana Fish Wildlife and Parks rule will help facilitate thoughtful and collaborative discussions to establish a wild herd on public lands. Separately, the Montana-based APR can also help achieve the pinnacle of wildlife restoration by creating a wildlife reserve for the enjoyment of the public.