

HJR

32

<TARGET><BILL>HJR 32</BILL><SUBJECT>HJR
32</SUBJECT><COMM>HRES27</COMM></TARGET>

27-LS1234\E
Bullard
2/24/12

CS FOR HOUSE JOINT RESOLUTION NO. 32()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES DICK, Austerman

A RESOLUTION

1 **Urging the United States Congress to remove wood bison from protection under the**
2 **Endangered Species Act of 1973 and to grant control of wood bison in Alaska to the**
3 **state.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **WHEREAS** the purpose of 16 U.S.C. 1531 - 1544 (Endangered Species Act of 1973)
6 ("the Act") is to protect or restore a species to a condition where continued existence of the
7 species is not threatened or endangered; and

8 **WHEREAS** litigation pursued by numerous environmental and conservation groups
9 has significantly affected the Act, and, often, implementation of the current law serves to
10 defeat the original purpose of the Act; and

11 **WHEREAS** free-ranging wood bison no longer exist in the United States but still
12 exist in healthy numbers in Canada; and

13 **WHEREAS** the State of Alaska would like to reintroduce wood bison in the state to
14 provide alternative hunting opportunities in rural areas, and providing this hunting
15 opportunity would be one of the main purposes for reintroducing wood bison in the state; and

#/adopted

1 **WHEREAS** wood bison are an endangered species and cannot be hunted without
2 federally approved exemptions to the Act; and

3 **WHEREAS**, if wood bison were reintroduced in the state in their current status,
4 resource development on the land they occupy could be significantly affected; and

5 **WHEREAS**, in an effort to avoid the restrictions on hunting and resource
6 development, the Department of Fish and Game negotiated with the United States Fish and
7 Wildlife Service exemptions under 16 U.S.C. 1533(d) and 1539(j) of the Act to allow hunting
8 of wood bison and to allow resource development on land used by wood bison; and

9 **WHEREAS** the certainty of the negotiated rules cannot be guaranteed by the United
10 States Fish and Wildlife Service; and

11 **WHEREAS** the negotiated rules are likely to be challenged; and

12 **WHEREAS**, after 20 years of protecting the gray wolf in other states, during which
13 time all of the original goals were met or exceeded, the United States Fish and Wildlife
14 Service could not remove the gray wolf from the endangered species list and return control to
15 the states because of litigation brought in the federal courts; and

16 **WHEREAS**, because numerous lawsuits have been filed in attempts to use the Act for
17 purposes other than to accomplish the stated goal, repeated requests were made to the United
18 States Congress to intervene; and

19 **WHEREAS**, in an unprecedented act, the United States Congress recently removed
20 the Montana and Idaho populations of the gray wolf from protection under the Act and
21 returned control to the respective states; and

22 **WHEREAS**, under the current situation, if wood bison were released in the state, their
23 habitat and any areas onto which they were to wander could become subject to the restrictive
24 provisions of the Act because of court action; and

25 **WHEREAS** significant resources in the state are at stake; and

26 **WHEREAS** the Donlin Creek mine is located well within wood bison traveling
27 distance, and, if wood bison were to wander to Donlin Creek, that \$70,000,000,000 of
28 resources could easily be locked up, at a cost of \$700,000,000 for each of the approximately
29 100 wood bison released; and

30 **WHEREAS** Canada, under the Species at Risk Act, has declared the wood bison
31 proposed to be sent to Alaska a surplus and has acknowledged that the loss of those wood

1 bison would not have a negative effect on the successful restoration of wood bison in Canada;
2 and

3 **WHEREAS**, for more than 70 years, the Department of Fish and Game has
4 successfully managed plains bison, which are genetically similar to wood bison, and wood
5 bison would prosper under similar management; and

6 **WHEREAS**, if the wood bison proposed to be reintroduced to the state are to be
7 under the protection of the Act and its accompanying restrictions relating to land development
8 and hunting, the State of Alaska has concerns related to the uncertainty of court intervention;
9 and

10 **WHEREAS** these facts serve to demonstrate this point: The wood bison's status on
11 the list of species protected under the Endangered Species Act of 1973 is what most
12 endangers them;

13 **BE IT RESOLVED** that the Alaska State Legislature urges the United States
14 Congress to exempt wood bison from protection under the Endangered Species Act of 1973
15 and to grant control of wood bison in Alaska to the state.

16 **COPIES** of this resolution shall be sent to the Honorable Barack Obama, President of
17 the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and
18 President of the U.S. Senate; the Honorable Harry Reid, Majority Leader of the U.S. Senate;
19 the Honorable Mitch McConnell, Minority Leader of the U.S. Senate; the Honorable John
20 Boehner, Speaker of the U.S. House of Representatives; the Honorable Nancy Pelosi,
21 Minority Leader of the U.S. House of Representatives; the Honorable Ken Salazar, United
22 States Secretary of the Interior; and the Honorable Lisa Murkowski and the Honorable Mark
23 Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the
24 Alaska delegation in Congress.

Differences Between the HJR 32 Original Resolution and the CSHJR 32 Version E

Prepared by Sponsor's Office

Replaced repeated references to the "Endangered Species Act of 1973" with "The Act"

Clarified that litigation affected implementation of The Act.

Clarified that "free ranging" bison no longer exist in the United States

Replaced some references to the "Department of Fish and Game" with "State of Alaska"

Clarified that "provid[ing] alternative hunting opportunities in rural areas" is a purpose of reintroducing wood bison in the state.

Removed excessive wording

Clarified that the state has concerns regarding the certainty of the negotiated special provisions in the event of a legal challenge

Clarified that USFWS could not remove the gray wolf from the ESA list due to federal court intervention

Clarified that it was the Montana and Idaho populations of gray wolf that were removed from the ESA list.

Clarifies that if the land the wood bison occupy were to become subject to the restrictive provisions of the ESA it would be by court action

Clarifies that the ADF&G has successfully managed plains bison in Alaska for more than 70 years

Clarifies that the State's concerns are related to the uncertainty of court intervention

Clarifies that we are asking for congress to "exempt" not "remove" wood bison from the ESA

Brief Description of Backup Information for HJR 32

1. Committee Substitute for HJR 32
Wood Bison Resolution – Revision E
2. Quotes from ADF&G's publication *Wood Bison News*
Brief Overview of Wood Bison Situation
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Congress Removes Wolves from ESA
5. What's the Cost?
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6. An Alternative Perspective on the ESA
"As a registered Republican in the District of Columbia, I have some experience and a special concern for endangered species".
7. Wolf Recovery
Old, but comprehensive discourse on Political Ecology and Endangered Species
8. Rebuilding the Ark
ESA reform - New Perspectives
9. ADF&G *Wood Bison News* - Issue 6

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Amend

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19 the Honorable Mitch McConnell, Minority Leader of the U.S. Senate; the Honorable John
20 Boehner, Speaker of the U.S. House of Representatives; the Honorable Nancy Pelosi,
21 Minority Leader of the U.S. House of Representatives; the Honorable Ken Salazar, United
22 States Secretary of the Interior; and the Honorable Lisa Murkowski and the Honorable Mark
23 Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the
24 Alaska delegation in Congress.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version HJR32
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) HJR32-LEG-COU-2-23-12 Dept. Affected Legislature
 Title "Urging the United States Congress to remove wood bison from protection under the Endangered Species Act..." Appropriation Legislative Council
 Allocation Session Expenses
 Sponsor Representatives Dick, Austerman
 Requester House Resources OMB Component Number 782

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES

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Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial Version

Prepared by Jessica Geary, Finance Manager
 Division Legislative Affairs Agency
 Approved by Pamela Varni, Executive Director
Legislative Affairs Agency

Phone 465-6626
 Date/Time 2/23/12 4:20pm
 Date 2/23/2012

FISCAL NOTE

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

BILL NO. HJR32 _____

Analysis

This Legislation has zero fiscal impact on the Legislative Affairs Agency.

Alaska State Legislature

Juneau
State Capitol Bldg., Rm. 104
Juneau, AK 99801-1182
Phone (907) 465-4527
Fax (907) 465-2197



Interim
1292 Sadler Way, Ste 328
Fairbanks, AK 99701
Phone (907) 452-3434
Fax (907) 452-3430
Toll-Free (800) 491-4527

Representative Alan Dick *House District 6*

Sponsor Statement HJR 32: Wood Bison

A Resolution urging The United States Congress to remove wood bison from protection under the Endangered Species Act of 1973 and to grant control of wood bison in Alaska to the state.

The Alaska Department of Fish and Game (ADF&G) has been working to re-introduce wood bison into Alaska for many years. Wood bison are listed as an endangered species under the Endangered Species Act. The introduction of an endangered species into the wild brings with it significant restrictions on resource development and felony charges if they are harmed or hunted.

Under certain circumstances waivers of some of these restrictions are available and ADF&G has worked hard to negotiate such waivers. Last year they successfully concluded negotiations with the United States Fish and Wildlife Service (FWS) and were preparing to release them into the wild when FWS notified them that a lawsuit had been filed challenging whether or not a protected species could ever be hunted. FWS notified ADF&G that it was willing to proceed with the rest of the negotiated agreement but not the hunting provision. ADF&G wisely elected not to proceed until such assurances are guaranteed.

In recent years numerous lawsuits, and petitions for injunctive relief, have been filed seeking to overturn already negotiated agreements or prevent new waivers from being approved. An ever increasing number of these petitions or suits have been successful - which removes the assurance that the waivers are intended to offer.

If wood bison are reintroduced into the wild while they remain on the protected list hundreds of thousands of acres (if not more) of interior Alaska could be added to the

over 200 million acres of coastal Alaska that have recently been locked-up by the addition to the list of polar bears and beluga whales alone.

As a result there are only three reasonable responses to the current situation.

1. Work to facilitate their removal from the ESA by asking congress to intervene and remove them from the list as they did recently with the grey wolves in the Lower-48 states.
2. Release them onto an island and allow them to proliferate there until they are removed from protection at which time they could safely be reintroduced onto previously occupied lands.
3. Do not reintroduce wood bison into the wild in Alaska, even with negotiated agreements, as long as they remain on the ESA's threatened or endangered list.

HJR 32 addresses the first response.

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Old, but comprehensive discourse on Political Ecology and Endangered Species
8. Rebuilding the Ark
ESA reform - New Perspectives
9. ADF&G *Wood Bison News* - Issue 6

Linda Hay

From: Jennie Hafele
Sent: Wednesday, February 29, 2012 11:16 AM
To: Rep. Paul Seaton; Rep. Eric Feige
Cc: Heather Beggs; Mary Jane Shows; Linda Hay; Michael Paschall; Ross Soboleff
Subject: HRES HJR 32 Testimony
Attachments: HJR 32 comments.2.29.12.RRogers.pdf

To: House Resources Committee

2/29/2012 1:00pm Standing Committee Hearing

From: Randall Rogers

Sent: Via Jennie Hafele, Fairbanks LIO

Subject: HJR 32 Remove Wood Bison From Endangered List

Please enter into the record the attached testimony to the HRES Committee on HJR 32 Dated 2/29/2012



Randall R. Rogers
PO Box 82215
Fairbanks, AK 99708-2215
(907) 479-8207
rrrogers@alaska.net



February 29, 2012

Representative Alan Dick and members of the
House Resources committee
Sent via the Fairbanks Legislative Information Office

Re: House Joint Resolution No. 32

Dear Representative Dick and members of the House Resources Committee:

I appreciate the concerns of the members of the House Resources Committee about the potential restrictions on resource development and land use related to wood bison reintroduction in Alaska. I also appreciate that the current version of HJR 32 does not outright oppose wood bison reintroduction but gives support for congressional action to remove wood bison from the Endangered Species Act (ESA). While I do not personally object to this approach to resolving concerns about the status of wood bison under the ESA, I am concerned that there could be many political and legal challenges to overcome in order to achieve a congressional exemption of wood bison from the ESA. This approach could result in an extended delay or make the wood bison reintroduction project impossible.

I believe that completing regulations under section 10(j) of the ESA to designate wood bison in Alaska as a Nonessential Experimental Population (NEP) is a legally sound approach to resolving concerns about wood bison and maintaining opportunities for resource development and other land uses, including future hunting. I urge you to modify HJR 32 to include the option of completing the ESA 10(j) regulations.

Please keep in mind that proposed regulations would be issued first and there would be a minimum 60-day public comment period where the legislature and others could review the proposed regulations to see exactly what the provisions are. Wood bison cannot be released to the wild until the regulations are complete. Since the captive herd of wood bison at the Alaska Wildlife Conservation Center is owned and controlled by the State of Alaska the decisions on adequacy of the 10(j) regulations and moving forward with releasing the bison to the wild will be made by the State.

There are several clauses in the current version of HJR 32 that are inaccurate or outdated. The U.S. Fish and Wildlife Service (USFWS) has resolved some of the issues surrounding hunting of wolves in the Northern Rocky mountains and is ready to move forward with 10(j) regulations for wood bison in Alaska that provide for future hunting. The decision that hunting can be a valid and important tool to help promote wood bison conservation has been reviewed and approved all the way up to the national director level of the USFWS. Further, should litigation on the 10(j) rule occur, the USFWS is confident that the regulation will be upheld and it could help establish good case law that would further reaffirm hunting as a conservation tool. The state and USFWS need to work together and agree on suitable language on future hunting in the draft 10(j) rule so the USFWS can prepare a proposed rule to be published in the Federal Register. The legislature should encourage the Parnell administration to move forward quickly with this effort.

With the 10(j) and accompanying section 4(d) rules the scenario of locking up the Donlin Creek Mine included in HJR 32 would never occur. The 4(d) rules contain provisions to allow hazing of wood bison away from development activities. They also include provisions to allow "incidental take," which could include wood bison mortality, if the take occurred during an otherwise lawful activity. Further the draft ESA rules contain a provision that if the regulations are overturned in court or invalidated for any reason, the State would maintain the authority to remove wood bison from the landscape.

Unfortunately, since the draft regulations have never been published and made available for public review and comment members of the legislature and others who have and interest in wood bison restoration and resource development do not know exactly what the regulations will accomplish. This rule making process needs to move forward, perhaps concurrently with efforts to achieve congressional action, so that all viable options are being pursued to satisfy concerns about wood bison and the ESA and the State can move forward with releasing wood bison to the wild.

Background and Further Information

I am very familiar with the Alaska wood bison reintroduction project and efforts to address the status of wood bison under the Endangered Species Act (ESA) through my former position as Wildlife Planner for the Alaska Department of Fish and Game, Division of Wildlife Conservation in Fairbanks. I participated in years of discussions on wood bison and the ESA with staff from the USFWS and the Alaska Department's of Law and Natural Resources. Since my retirement last summer I have kept in contact with state staff working on the matter and recently met with key staff in the USFWS Alaska Regional Office.

The Alaska Department of Fish and Game has been working to restore wood bison in Interior Alaska for nearly twenty years. Wood bison restoration is a renewable form of resource development that will provide benefits to people for many, many years to come. Wood bison will provide a source of healthy red meat for Alaskans who depend on fish and wildlife. There will be opportunities for economic development based on bison viewing and hunting.

In 2008 ADF&G imported a small herd of wood bison from Canada. These bison and their offspring are receiving quality care at the Alaska Wildlife Conservation Center in Portage and will be used as founding stock for returning wood bison to the wild in Alaska.

While the wood bison are here there are concerns that because wood bison are an endangered species, reintroducing them could result in restrictions on oil and gas or other natural resource development. To address those concerns, ADF&G has been working with the Alaska Department of Law and the U.S. Fish and Wildlife Service to develop regulations to designate wood bison in Alaska as a "Nonessential Experimental Population" under section 10(j) of the Endangered Species Act. This type of regulation has never been applied in Alaska and would cause wood bison to be treated differently than any other endangered species in our state. The regulations will remove virtually all the regulatory requirements that normally apply under the ESA and designate the State to have primary management authority over wood bison herds. The regulations will prohibit designation of critical habitat for wood bison, a designation that is one of the primary concerns about possible restrictions on resource development where endangered species are present.

Congress added section 10(j) to the ESA specifically to address concerns about possible restrictions on land use where species are reintroduced into portions of their historic range where they are no longer present. The Department of Law concluded that wood bison restoration in Alaska fits perfectly with this provision of the ESA. Further, their research has shown that of the nearly 30 times this provision of the ESA has been used for other species in other states, none of the regulations have ever been overturned in the courts.

In the last year the ESA regulations have been delayed due to concerns about provisions regarding future wood bison harvest. Most recently the USFWS has indicated that provisions for future state-managed harvest can be included in the proposed regulations. The State and USFWS need to agree on language on future hunting to include in the proposed regulations so there is no further delay in the regulatory process.

To further respond to concerns about possible restrictions on resource development ADF&G changed the initial release site from the Yuko Flats or Minto Flats where Doyon, Ltd. is exploring for oil and gas to the lower Yukon-Innoko River area. There is little potential for conflicts with other resource development in this area and local residents have strongly supported the proposal. If wood bison roamed to the proposed Donlin Creek Mine the special ESA regulations would allow them to be hazed away or removed if necessary. If a legal challenge were to occur both state and federal attorneys have indicated they are confident the regulations would be upheld in court.

Designating wood bison as a Nonessential Experimental Population is a legally sound way to proceed with wood bison restoration while protecting other resource development activities. Publishing the ESA regulations will allow people and organizations interested in the wood bison project an opportunity to review what is being proposed and provide comments on how the final regulations can be revised and improved.

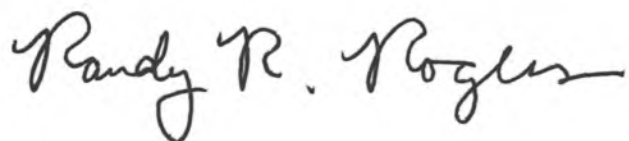
It is very expensive to care for the wood bison herd in captivity and the opportunity to restore wood bison in Alaska cannot be maintained indefinitely. Like a natural gas pipeline the project must be completed when all the factors line up correctly.

The Parnell administration and legislature need to support the efforts to establish special regulations for wood bison under the ESA. Once the regulations are completed they need to support ADF&G's efforts to implement the project as expeditiously as possible while the opportunity is present.

Conclusions

I urge members of the House Resources Committee and the Alaska Legislature as a whole to keep in mind the benefits that wood bison restoration can bring to residents and visitors to our state and support the Alaska wood bison restoration project. If Alaskans work together with a "can-do" attitude, there is no reason that wood bison restoration cannot proceed in harmony with other resource development.

Sincerely,



Randy R. Rogers

Paul Verhagen

From: Fleener, Craig L (DFG) <craig.fleener@alaska.gov>
Sent: Tuesday, February 21, 2012 12:21 PM
To: Paul Verhagen
Subject: RE: HJR 32

Paul,

Yes, we are supportive of this resolution.
One modification to recommend, I missed it last time.
On page 3 Line 14 (change the word "remove" to exempt).
This would be permanent.

Craig L. Fleener

Deputy Commissioner - Game
Alaska Department of Fish and Game
333 Raspberry Road
Anchorage, Alaska 99518
907-267-2228 (W)
907-687-6406 (C)

From: Paul Verhagen [<mailto:Paul.Verhagen@legis.state.ak.us>]
Sent: Friday, February 17, 2012 8:16 AM
To: Fleener, Craig L (DFG)
Subject: RE: HJR 32

Hi Craig,

Here it is. Thanks for your help!

Paul

From: Fleener, Craig L (DFG) [<mailto:craig.fleener@alaska.gov>]
Sent: Thursday, February 16, 2012 12:02 PM
To: Paul Verhagen
Subject: HJR 32

Paul,

Would you please e-mail me the cleaned up copy of HJR32 that Rep. Dick intend to send up?
I need to brief our staff on the Resolution so I can get you an answer.

Thanks,

Craig L. Fleener

Deputy Commissioner - Game
Alaska Department of Fish and Game
333 Raspberry Road
Anchorage, Alaska 99518
907-267-2228 (W)
907-687-6406 (C)



IN REPLY REFER TO

United States Department of the Interior

FISH AND WILDLIFE SERVICE

1011 E. Tudor Road
Anchorage, Alaska 99503-6199



FWS FES

FEB 14 2012

Representative Alan Dick
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Dick:

I would like to take this opportunity to reaffirm our support for the ongoing cooperative efforts between the U.S. Fish and Wildlife Service (Service) and the Alaska Department of Fish and Game (ADF&G) regarding the State's proposal to reintroduce wood bison to Alaska. For the last several years, the Service has worked closely with ADF&G to find the most effective approach to this issue that will minimize Endangered Species Act (ESA) requirements as well as any potential future effects on proposed development projects and communities in the State. We also have explored how best to transfer management authority of any reintroduced wood bison to the ADF&G, which we agree is the appropriate agency for this responsibility. As a measure of our commitment, the Service provided \$200,000 in Federal funds to support the captive wood bison at the Wildlife Conservation Center near Portage from July 2011 to June 2012, while we helped to find a way forward.

We also would like to set the record straight regarding some inaccurate information in the House Joint Resolution No. 32, introduced to the Alaska State Legislature on February 1, 2012. The resolution urged the United States Congress to remove wood bison from protection under the ESA and to grant control of wood bison in Alaska to the State.

The characterization of the ESA in the Resolution, which states that as a result of litigation, implementation of the current law serves to defeat its original purpose, is inaccurate. In fact, for more than 35 years, the ESA has prevented the probable extinction of hundreds of species across the Nation and contributed to the recovery of many others. Three of those species that have recovered are native to Alaska [Aleutian Canada (cackling) goose, American peregrine falcon, and Arctic peregrine falcon]. As a matter of record, the Service's Alaska Region has conducted over 5,500 ESA consultations on proposed projects since 2002, and we have never stopped a single project or required major modifications to a proposed action. We coordinate closely with project proponents to minimize adverse effects to species, while allowing proposed development projects to proceed.

TAKE PRIDE
IN AMERICA 

The Resolution alleges that new litigation challenging whether endangered species can ever be hunted resulted in the Service being unwilling to proceed with the negotiated exemptions. This statement is incorrect. The Alaska Region has communicated extensively with our Washington Office on this issue. In October 2011, the Service Director reached a decision that supports future hunting of wood bison as an appropriate management tool. Since then, our position has remained constant: the Service supports hunting of wood bison as an appropriate population management tool. In Canada, hunting has been used to effectively manage wood bison populations since 1988.

The statements claiming that if wood bison were released in the State, their habitat could become subject to the "restrictive provisions" of the ESA and result in exorbitant economic costs are unfounded. These exaggerated statements about the ESA are creating a negative and fearful environment that makes it more difficult to achieve common ground. The Service is working with the State to designate the Alaska population of wood bison as a nonessential, experimental population with an associated State management plan. This would provide the State with assurances they have requested, including the ability to remove wood bison from the landscape in the event the State decides that the reintroduction of wood bison is not in the State's best interests. The nonessential, experimental designation minimizes the requirement for consultation under the ESA for federally funded or federally permitted development projects on all State and private lands, and on most Federal lands.

My staff and I would be happy to meet with you and members of your staff to further clarify issues relating to wood bison reintroduction or the ESA in general. Please contact me at (907) 786-3542 if you would like to arrange a meeting.

Sincerely,



Regional Director

cc: Cora Campbell, Commissioner, Alaska Department of Fish and Game

Testimony on HJR 32

Representative Dick heard about the plan to reintroduce wood bison into Alaska many years ago. He thought it was a great idea! He remembers being surprised when he heard that Doyon came out in opposition to having them released into the Nenana area. At the time didn't look into the matter. It wasn't until he was elected to office and our office looked into the subject that he paid much attention to the issue.

But once he had researched it and understood the "strings" that are attached to an animal on the threatened or endangered list he wondered why *anyone* would want to proceed with reintroduction as long as they remain under the "protection" of the Endangered Species Act? The risks are enormous. Alaska has only to look at what other states have had to deal with in order to realize the frustration and time and expense that they have been subjected to.

The wisdom of voluntarily subjecting ourselves to those problems by bringing in an animal that is *already* on the threatened or endangered list is certainly worth reconsideration.

With the addition of just one animal to the list (the polar bear) our state has already had more land "locked up" than all the land granted to us by the federal government at the time of statehood.

Last year Representative Dick filed HB186 in an effort to prevent the Alaska Department of Fish and Game (Fish and Game) from introducing wood bison into the state without approval by the legislature.

Between then and now interesting things have happened with regards to the Endangered Species Act. After several states spent years working to get grey wolves removed from the list they found themselves extremely frustrated when one court would rule in their favor and another would rule against them.

Eventually they took their case to congress. In a surprise move, congress intervened and exempted the grey wolf from the Endangered Species Act and made their decision "not subject to review by the courts".

From Representative Dick's perspective a similar action by congress would resolve all of our problems the bison could be released into the wild without the restrictions that come with the act and they could be managed by our State Department of Fish and Game – just as the plains bison have been successfully managed for over 70 years.

In an effort to urge Congress to intervene on our behalf Representative Dick is seeking this House Joint Resolution that encourages congress to exempt wood bison from the act.

Representative Dick recently received a letter from Geoff Haskett, Regional Director of the United States Fish and Wildlife Service (Fish and Wildlife Service).

Regional Director Haskett takes issue with some of the statements Representative Dick has made in the resolution and explains that Fish and Wildlife Service has worked closely with Fish and Game in an effort to release the bison into the wild.

Representative Dick doesn't question that Fish and Wildlife Service has spent years working with Fish and Game on Alaska's effort to reintroduce Wood Bison into Alaska. He doesn't question that Fish and Wildlife Service wants the project to move forward. Nor does he question their diligence in ensuring

that the agreement they reach with Fish and Game complies with the most current interpretation of the Endangered Species Act. In fact, he sympathizes with the Service as they try to keep up with the rulings because the ink is barely dry on the last ruling before the next ruling is out. Fish and Wildlife Service is constantly chasing a moving target and the situation is only getting worse – and THAT is the point he is making.

The Endangered Species Act may have been created with the best of intentions by people with a sincere concern for the environment – but it has been hijacked and has today become a tool used by special interest groups whose goals are not so much to protect endangered species or the environment but rather for business or political purposes. And when group after group brings suit after suit and one after another manages to invalidate agreements that were painstakingly worked out by an agency – it undermines the purpose of the act.

While referring to the wolf issue the Secretary of the Interior, Ken Salazar, said “The fact is, after years of lawsuits, wolf de-listing got stuck in unacceptable gridlock, acrimony and dispute. The debate was consuming Fish and Wildlife Service resources that could be spent recovering other species.”

Representative Dick doesn’t lay this issue at the feet of Fish and Wildlife Service. They have no choice but to respond to the suits that are filed, but it is becoming increasingly clear that there other special interest groups with a different focus still. On this subject James Thompson from the University of Wyoming is quoted as saying¹:

“wolf recovery is [only] a ‘stalking horse’ for the larger issue of land use change.” Even environmentalists have admitted that “on the deepest level the issue of wolf recovery is not about wolves. [Instead] it is about control of the west” (Askins 1993:5). Simply put, environmental-ists are using wolf recovery and the Endangered Species Act to run ranchers out of the country and to thwart multiple use of public lands. It is also a way for animal-rights and antihunting groups to ban all hunting and use of wildlife. Is this what Congress had in mind when it passed the Endangered Species Act? There is no evidence to even remotely suggest that it is”.

In the same letter Regional Director Haskett disagreed with Representative Dick’s position that – The wood bison’s status on the list of species protected under the Endangered Species Act of 1973 is what most endangers them;

He offers proof that Representative Dick’s assertion is wrong by stating that for over 35 years the Endangered Species Act has prevented the probable extinction of hundreds of species (a position that many disagree with) – but He is *not* disagreeing with what may have happened in the past. He is merely stating that after many years of working towards the goal there are still no wood bison roaming the wilds of Alaska and, as clearly stated by wood bison biologist Bob Stevenson, in the Department’s publication *Wood Bison News*, it was because of litigation. He says:

“recent litigation has raised a question about whether the FWS can allow hunting of a species that are protected under the ESA...The result is that the ESA regulations have been delayed”.

Regional Director Haskett states that after extensive communications with the Washington office the service *director* reached a decision that supports future hunting of wood bison – but *that* underscores Representative Dick’s point that we are all operating on quicksand with no solid footing! What if

¹ http://www.independent.org/publications/policy_reports/detail.asp?type=full&id=6

regional director Haskett had *not* gone to bat for us? And nothing guarantees that his successor will be as accommodating as he is, or that even he himself will remain free in the future to be as accommodating as he may have been.

Director Haskett concludes his letter with assurances that the Service is working with the state to designate Alaska's wood bison as a nonessential, experimental population that would provide the state with the assurances that they have requested. But the bottom line is that if wood bison weren't under the "protection" of the Endangered Species Act they would already be wandering the wilds like the plains bison are and there wouldn't be any fear of our lands and resources being locked up. And if there weren't elements working against the assurances that Alaska wants, it would not have taken this many years to get to the point we are at - which is that we're *still* not there.

Although passage of this resolution won't change anything itself it will serve to remind Congress once again that in more than a few instances the act itself has become its own worst enemy. It may also prompt them to step in and resolve our wood bison problem. If they were to exempt all bison we won't need to worry about the lawsuits that seek to include the plains bison under protection of the act.

This concludes my testimony on HJR32 - Wood Bison. Thank You