

OPINION

GUEST COLUMN

Restorative justice for tribes

In addition to codifying a state-tribal water settlement, recently introduced bipartisan legislation (the Montana Water Rights Protection Act) would enable the Confederated Salish and Kootenai Tribes (CSKT) to manage the National Bison Range. This is a historic opportunity to correct a long-standing injustice and enhance the visitor experience, while maintaining sound



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stewardship of the wildlife refuge.

The U.S. Fish and Wildlife Service's recent Comprehensive Conservation Plan for the NBR can serve as a blueprint for tribal management. Federal-tribal co-management experiences also help assure a smooth hand-off; and the CSKT's track record and strong cultural ties to bison

assures that sound resource management will continue. The tribes currently manage a tribal wilderness area, control terrestrial and aquatic invasive species and protect Flathead Lake. They developed a grizzly management plan, restored endangered bull trout, reintroduced the trumpeter swan, created wildlife corridors and much more.

Tribal management will re-establish the tribes' historic stewardship role. In the 1880s to the early 1900s, tribal members established and grew a free-ranging bison herd, animals used to populate the National Bison Range when it was carved out of the Flathead Reservation in 1908. The CSKT never consented to the sale of land for the Bison Range.

Yet, opponents often misrepresent how the federal government obtained the Bison Range. They resort to tired tropes about the government providing tribal

members with free, or undue, money. They often say that the government "purchased" or "bought" the Bison Range from the CSKT, though a purchase requires a willing seller. Moreover, in 1971, the federal Court of Claims held that the U.S. had unconstitutionally taken the land for the Bison Range, since it had failed to pay the tribes fair market value. The court therefore ordered the government to pay the tribes the difference, with interest.

In attempting to portray a windfall of federal dollars, opponents inflate this amount by including it with the payment to the tribes for other reservation lands, and by using current 2020 dollars. They also like to say that the public has paid the tribes for the Bison Range "twice" — conveniently ignoring that the first payment was insufficient and the second "payment" merely brought the first payment up to

the legal fair market value.

In making their economic allegations, opponents fail to acknowledge that the legislative restoration of the Bison Range is part of a negotiated agreement that both resolves massive financial liabilities on the part of the federal government and also protects thousands of water users on the reservation and throughout much of Montana.

Opponents also warn that restoration of the NBR sets a bad precedent. However, circumstances in this case, including the unique geographic, historical and cultural significance of the Bison Range to the tribes, do not apply elsewhere. Nor does this case support arguments for transferring federal lands to states or private interests. The Bison Range will be held in federal trust by the U.S. Department of the Interior on behalf of a federally recognized tribe, entirely within an existing Indian

reservation established by the Hellgate Treaty of 1855.

These are the reasons that a growing list of over 20 conservation and other organizations support Bison Range restoration. We recognize CSKT's record as wildlife managers, and its long history of providing public access and outstanding wildlife education opportunities for visitors.

U.S. Sens. Steve Daines and Jon Tester, who introduced the Montana Water Rights Protection Act, should be commended for their work to protect water rights for thousands of Montana ranchers and other individuals, as well as for providing an equitable settlement of the federal government's liabilities to the tribes.

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