

Spokane County Bar Association Indian Law Conference 2025

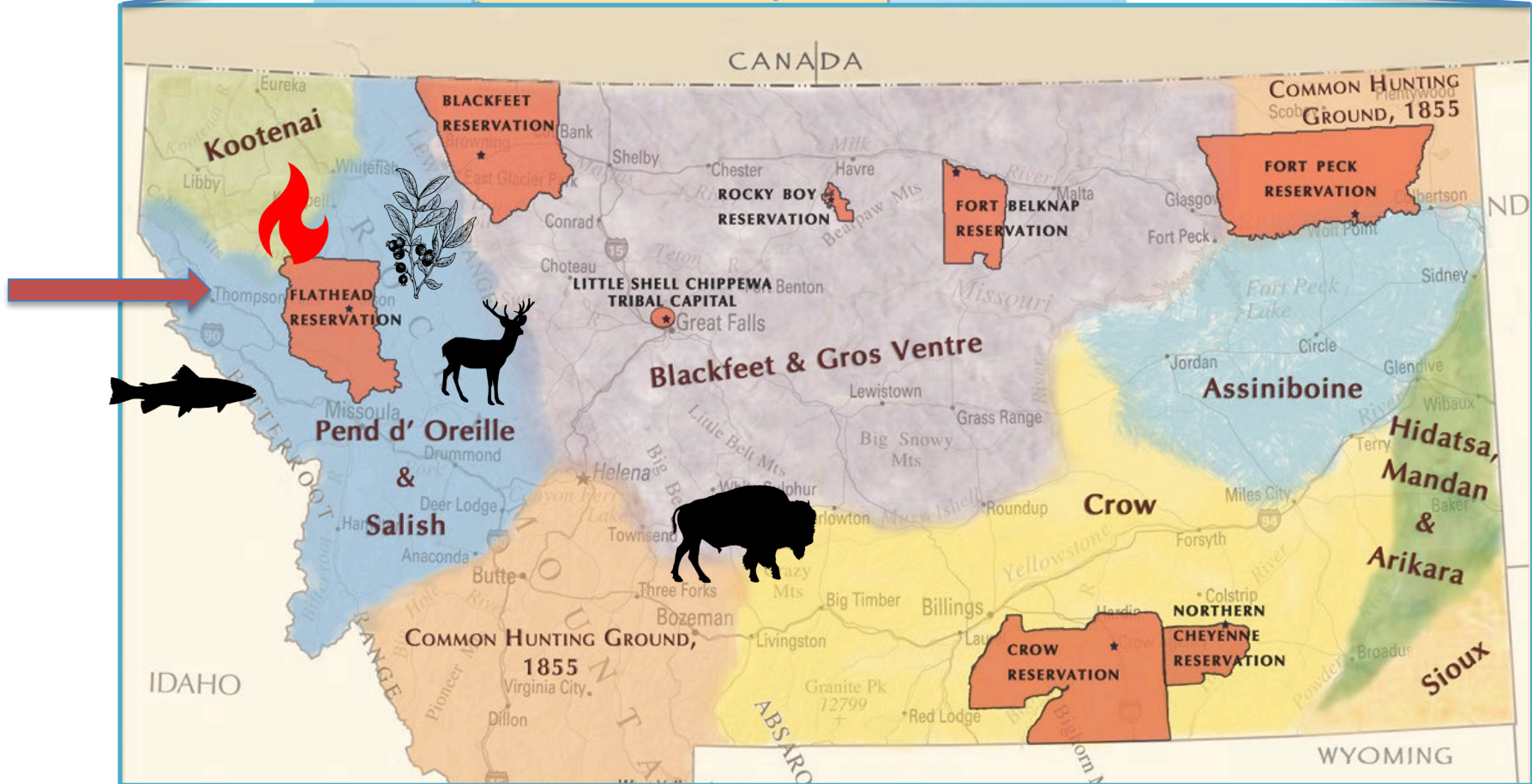
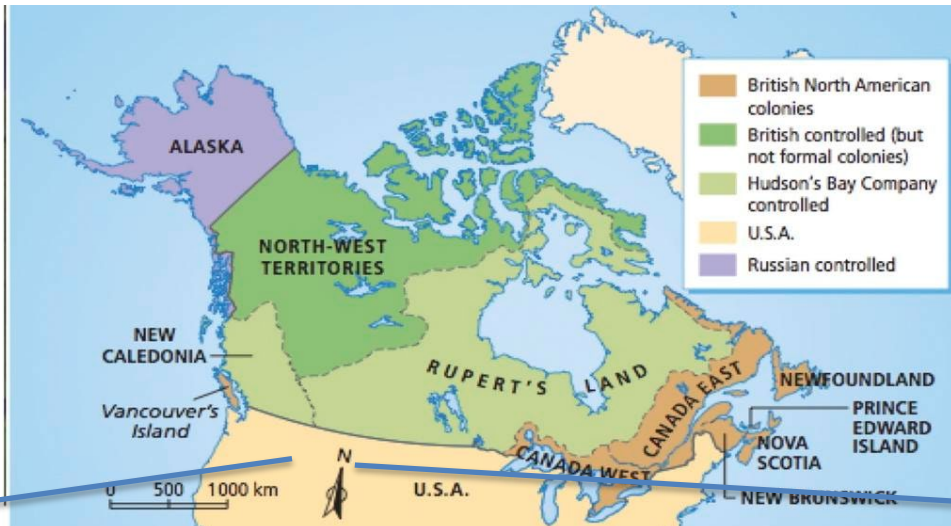
Tribal Co-Stewardship of Federal Land

M. Jordan Thompson

Acting Executive Officer

Confederated Salish & Kootenai Tribes of the Flathead Nation

The Salish, Pend d'Oreille, and Kootenai Tribes



Hellgate Treaty

- The Treaty of Hellgate was signed on July 16, 1855.
- "All of which shall be set apart ... for the exclusive use and benefit of said confederated tribes as an Indian reservation." *Treaty of Hellgate, Art. II, 12 Stat. 975, July 16, 1855.*
- Treaty secured for the Tribes off-reservation hunting and fishing rights
- A treaty made under the authority of the United States "shall be the supreme law of the land." *U.S. Constitution, Article 6, Section 2.*



*Hellgate Treaty Negotiations
Drawing by G. Solow*

In the Spirit of ?Atatice?: The Untold Story of the National Bison Range

A FILM PRESENTED BY THE
CONFEDERATED SALISH AND KOOTENAI TRIBES



Directed by Daniel Glick and produced by
Roy Bigsone, Shane Morigeau, Brian Upton and Daniel Glick.

For more information, contact 406-549-1818 or email Robertmcdonald@cskt.org

This event is supported by the
Museum and Mike Mansfield Center,
The Wilderness Society and the
National Wildlife Federation.



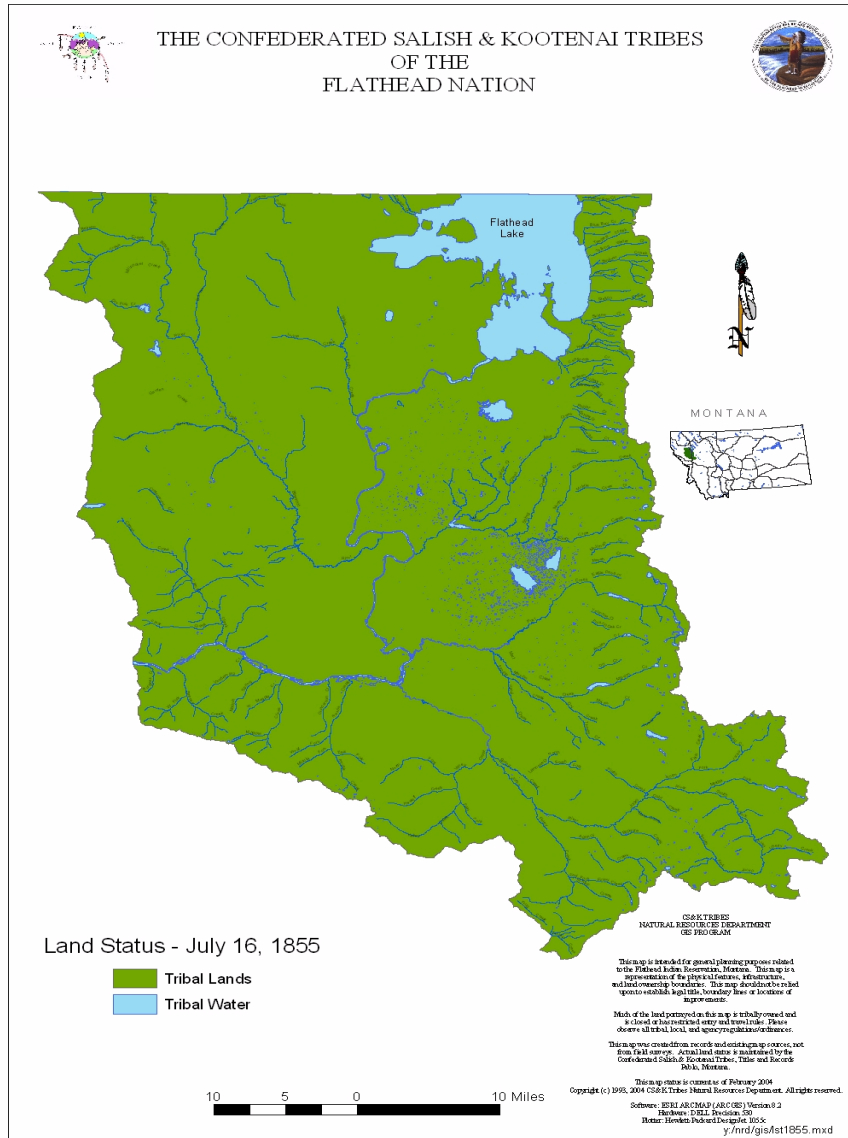
History of buffalo on the Flathead Reservation

- Atatice (Peregrine Falcon Robe) was a tribal member who saw that the buffalo were disappearing in the 1850s and 60s
- After a successful hunt east of the mountains, buffalo were following Atatice. Atatice asked the chiefs to take buffalo back to the Flathead Reservation to live. There was an impasse.
- 1870s – Latati, Atatice's son, would realize his father's vision years later and brought orphans back to the Flathead Reservation.
- While Latati was away, his father-in-law sold his small herd to two men, Allard and Pablo.
- Pablo and Allard grew the herd to be among the biggest in North America, and it became important to restock other herds – including Yellowstone.

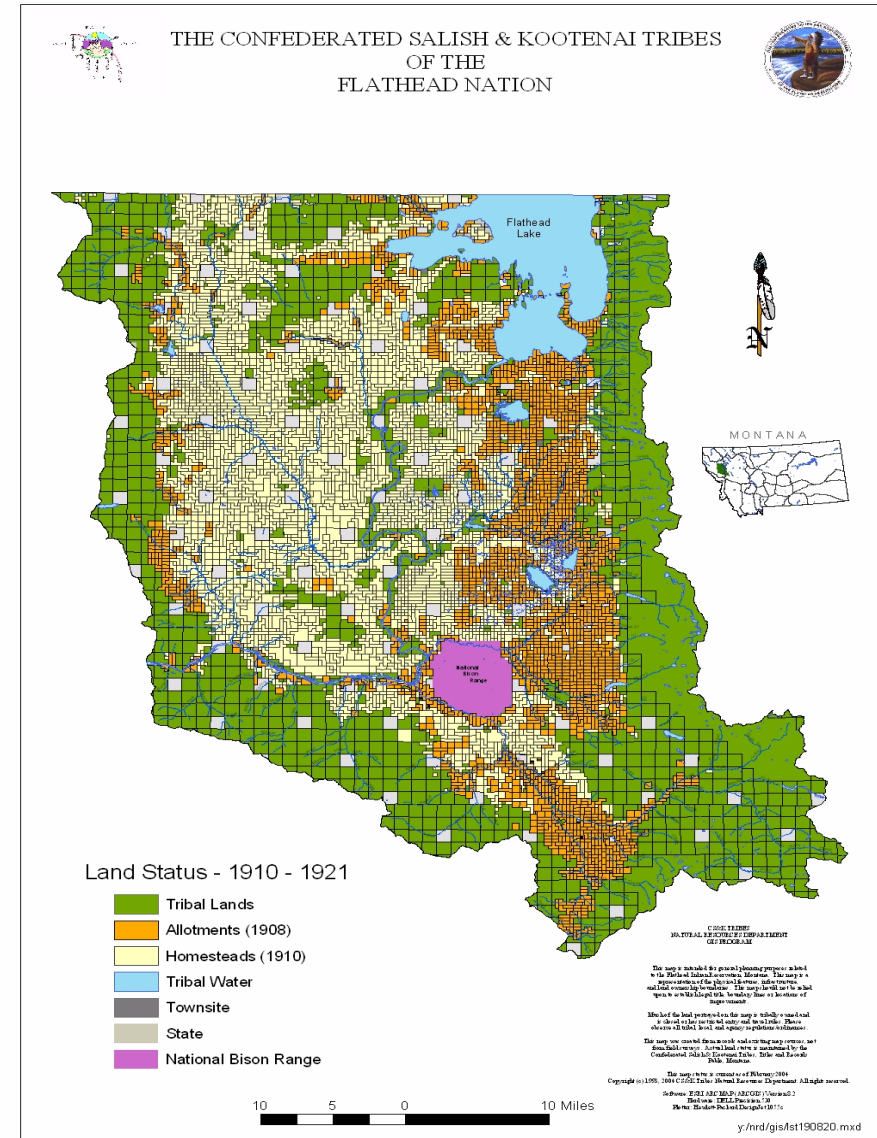


At 600 – 900 bison on the Flathead Reservation, the Pablo-Allard herd was the largest remaining free range bison herd in America.

Flathead Allotment Act



1855



1921

National Bison Range

- The American Bison Society, which was formed in New York to help save bison from extinction, and recommended to have a Bison Range in the Flathead Reservation.
- Without tribal consent, the federal government through Congressional Act established the National Bison Range in 1908 as a 19,000-acre preserve in the middle of the Flathead Indian Reservation.
- Many of the buffalo brought to the Bison Range were from the same herds that the Pablo Allard herd were sold to.
- Tribal members were excluded from bison management, and the Salish word for the bison range was Nloxwenc (fenced-in-place).

Big Medicine (1933-1959)



Federal Laws that Supported Restoration of Tribal Self- Governance

- Indian Reorganization Act (“IRA”) passed in 1934. CSKT first tribe to organize under.
 - Tribal government structure now one that the U.S. recognizes
 - Allowed Tribes ability to purchase lands on Reservation back
- Indian Self Determination and Education Assistance Act
 - 1970s Tribes began wielding sovereign powers
 - The Indian Self Determination Act gave the CSKT Government the power to perform BIA functions.
- Tribal Self Governance Act
 - 1994 law that amended the ISDA to allow tribes to contract non-BIA Interior programs



Timeline of Bison Range Management Requests

- 1994: Chairman 'Mickey' Pablo, who was a big proponent of self determination demonstration projects, sent a letter to Director of Office of Self Governance announcing intent to negotiate for contracting activities at the National Bison Range Complex. This was the beginning of the new fight for management of bison range.
- 2004: After 10 years, the CSKT and USFWS agree to the first Self-Governance agreement for the Bison Range, and it was limited. The Tribes co-managed, but the Agreement soon fell apart because some USFWS staff ginned up allegations (later proven to be false) about the Tribes performance and in 2006 the USFWS terminated the Agreement.
- 2009: After much work, a second Self-Governance agreement was negotiated, which worked well. However, outside parties sued and the judge said that the USFWS didn't comply with the NEPA (technical -- didn't adequately explain why a Categorical Exclusion was used under NEPA)
- 2011-16: After the court rescinded, a third co-management agreement was negotiated, but the USFWS took an incredibly long time to conduct an environmental assessment. Then, in the mid 2010s, to CSKT's surprise, the then director of USFWS asked if the tribes would be interested in having the bison range returned through legislation – we said we would support that!

And then,
finally...

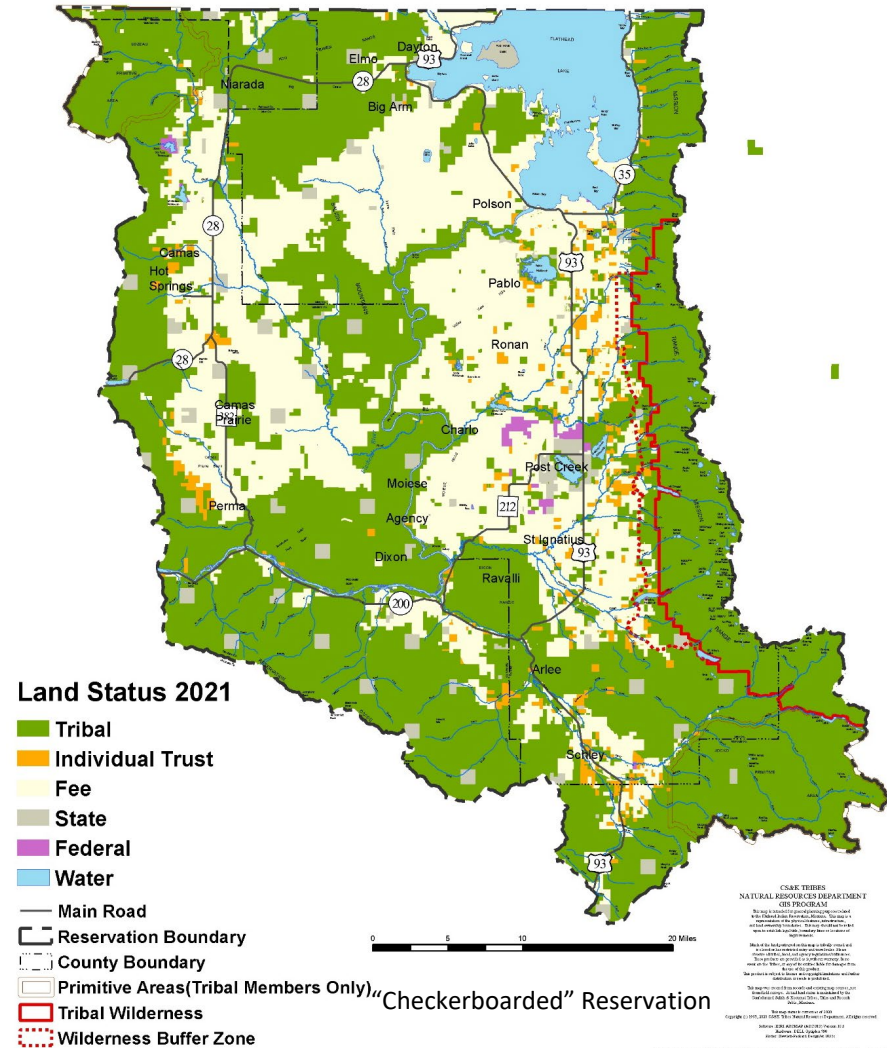
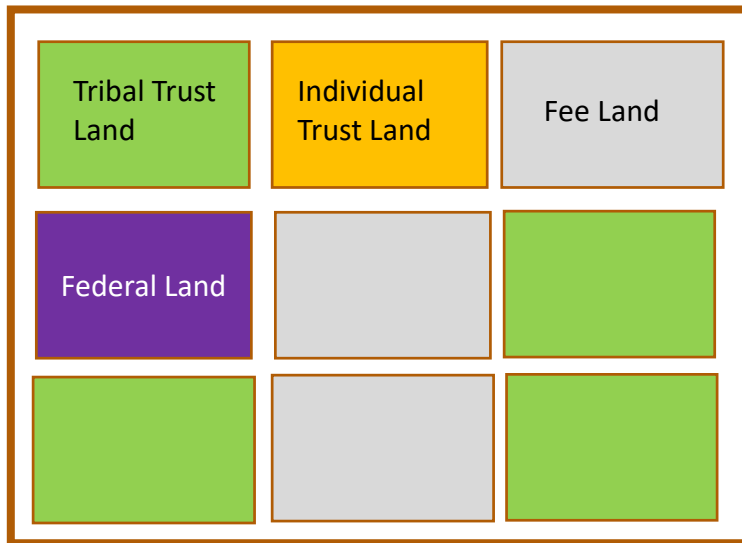
THE RETURN of the Bison Range to the CSKT!

After more than a century of federal management and nearly two decades of negotiations, the transfer of the Bison Range back to CSKT management was accomplished through enactment of the [Montana Water Rights Protection Act](#) of 2020. The transfer became official on January 2, 2022.





Flathead Indian Reservation Land Status Changes



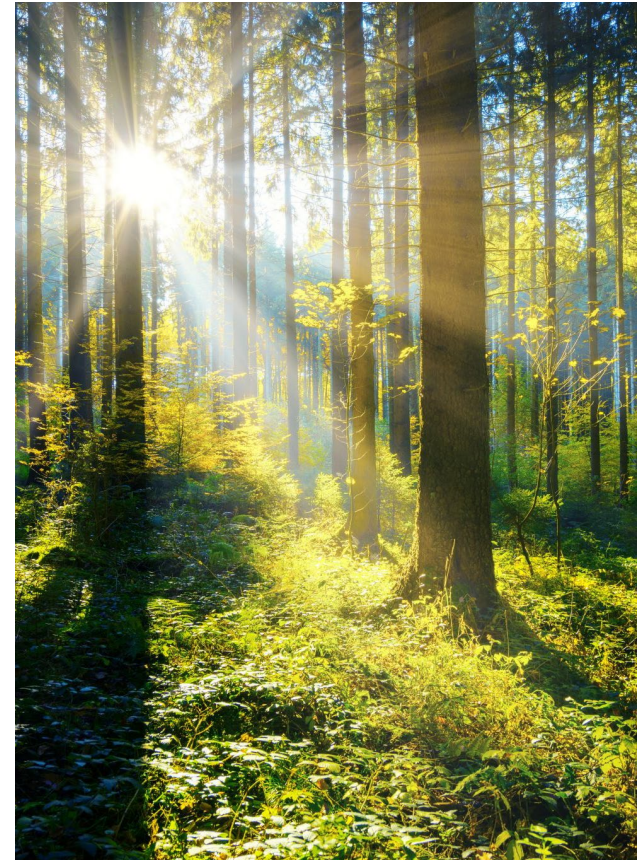
Yellowstone Bison Co-Management

- In the Hellgate Treaty (a Stevens treaty), CSKT reserved off-reservation hunting and fishing rights
- In 2005, the Montana legislature authorized the Montanan FWP to issue bison hunt permits, which included two hunt permits per tribal government
- CSKT declined the offer of state permits, and instead re-initiated a CSKT hunt off of the Tribes' treaty rights. In 2006 CSKT's Division of Fish, Wildlife, Rec. and Conservation developed bison hunting regs that were approved by Council.
- CSKT proved to the State of Montana that CSKT has a treaty right to hunt bison, and since 2007-2008 have been participating in hunting in the Greater Yellowstone Area
- In 2009, the CSKT and Nez Perce Tribe, along with the Intertribal Bison Council, joined the Interagency Bison Management Plan ("IBMP") partnership. These tribal entities have participated in the management of Yellowstone bison as full partners in the management of the Yellowstone bison herd.
- The IBMP consists of National Park Service, Forest Service, USDA-Animal & Plant Health Inspection Service, Montana Department of Livestock, and Montana FWP, the CSKT, the Inter Tribal Buffalo Council, and the Nez Perce Tribe. The IBMP guides the management of bison and brucellosis in and around Yellowstone National Park.
- The park will manage a bison population between 3,000 and 6,000 after calving, averaging about 5,000, consistent with the 10-year average. The plan also expands the bison conservation transfer program to restore bison to Tribal lands and provide meat and hides through the Tribal food transfer program.

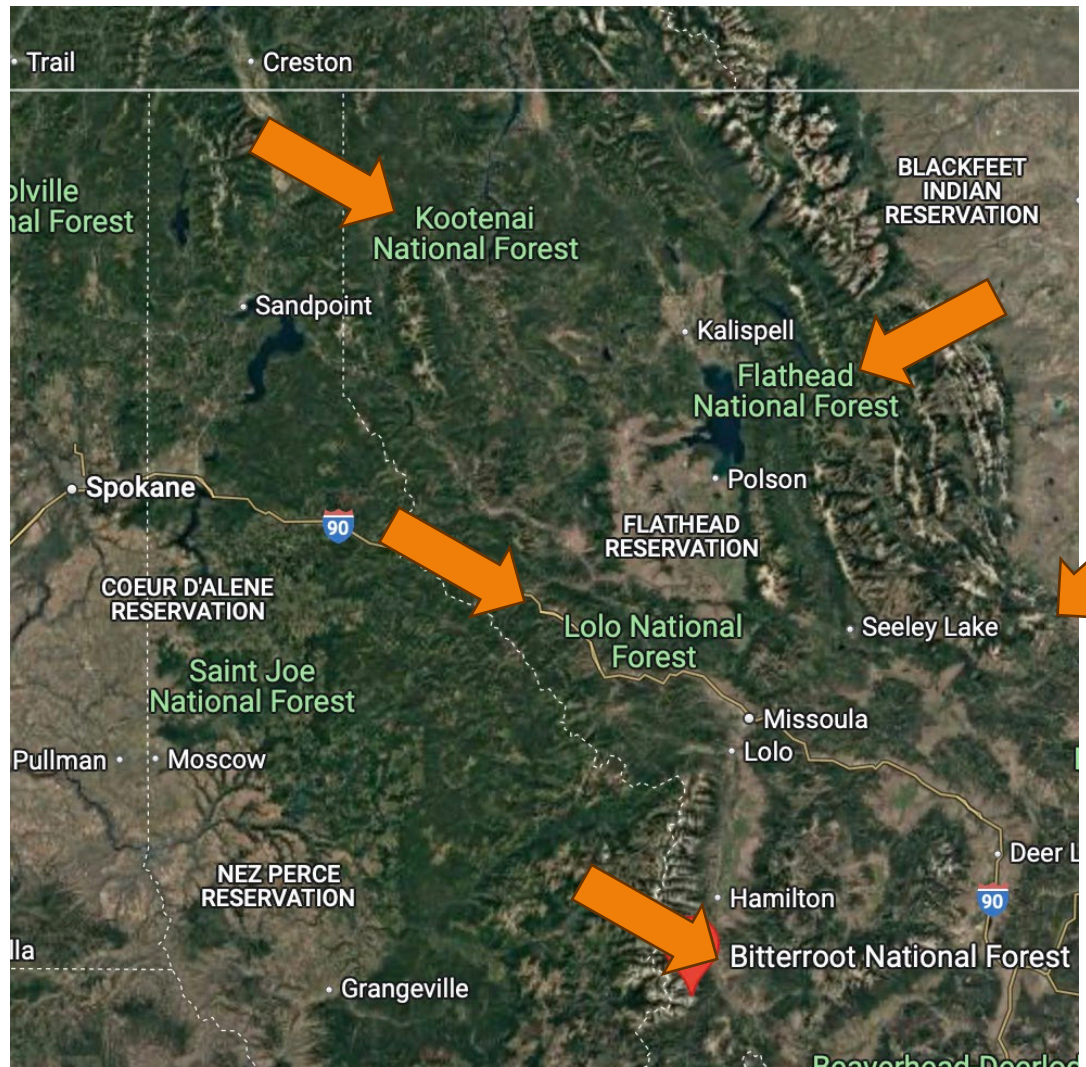


US Forest Service and BLM Forest Co-Stewardship

- Tribal Forest Protection Act– in 2004 allowed for CSKT to coordinate work on adjacent federal lands. CSKT also leveraged the Reserved Treaty Rights Lands fuel reduction funds provided by the BIA to support this work.
 - Projects include thinning, treating noxious weeds, forest condition and inventory reports, planning (e.g., fire), habitat restoration, prescribed fires, and NEPA coordination
- Good Neighbor Authority
 - Authorized by Congress in the 2014 Farm Bill, this law allows the USDA Forest Service to enter into agreements with state forestry agencies to implement important management work on national forests. In 2018 the GNA was expanded to include tribes.
 - Infrastructure Investment and Jobs Act allocated funding through FY 2026 for federal, state, and tribal authorities that enter GNA agreements for ecosystem restoration projects under the Tribal Forest Protection Act.
 - The CSKT Good Neighbor Agreement with the U.S. Forest Service Region 1 adds a full-time liaison to facilitate communication and recommendations between the Tribes (resource departments, culture committees, and Tribal Council), and four national forests (Bitterroot, Flathead, Kootenai, and Lolo).
 - Forest restoration efforts focus on landscapes that were heavily impacted by decades of railroad construction and industrial timber harvesting, leaving behind a patchwork of clear-cuts and young, homogenous forests. The tribal liaison role aims to facilitate the reintroduction of cultural burning practices, wildlife habitat restoration, and revitalize the overall ecosystem.
- In 2023, the Confederated Salish and Kootenai Tribes entered into a financial assistance agreement using the Good Neighbor Authority – this agreement was the first GNA agreement between BLM and Tribes in the United States! This MOU focuses on the Blackfoot Clearwater region.



National
Forests that
CSKT co-
stewards
utilizing the
Good Neighbor
Authority



Lemlmnts!

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