

Blue Goose Alliance Bulletin

#74 – July 31, 2011

National Bison Range Update

It has been 10 months since U.S. District Judge Colleen Kollar-Kotelly rescinded The \$ 1.2 million Annual Funding Agreement at the National Bison Range Complex (NBRC), Montana between the U.S. Fish and Wildlife Service and the Confederated Salish and Kootenai Tribes (CSKT). The judge ruled that the Department of Interior violated the National Environmental Policy Act when it entered into that second funding agreement with the tribes more than two years ago. The parties' motions for summary judgment with respect to their other claims were dismissed without prejudice.

Initially, the CSKT filed an appeal of the ruling, but ultimately their appeal was withdrawn. In regards to the law suits, one filed by Public Employees for Environmental Responsibility and the other filed by the Blue Goose Alliance, one issue is not yet resolved. In July 2011, the Department of Justice requested a 60-day extension of time to negotiate the repayment of legal fees.

Almost immediately following the decision, the Service was granted 30-day emergency hiring authority to carry out the annual bison range roundup. The roundup was monitored by several BGA board members. Four BGA board members attended the "Conserving the Future" Conference recently held in Madison, Wisconsin. We were able to talk to Service officials from the Refuge, Regional Office and Washington Office. We learned that the Service is developing an Annual Funding Agreement Policy. We also learned that following the rescission of the AFA, regional staff have made multiple trips to Montana to meet with the CSKT. However, the Fish and Wildlife Service has not made an official announcement of how they intend to proceed at the National Bison Range. We will continue to monitor events at the National Bison Range to insure the integrity of the National Wildlife Refuge System is not compromised.

On October 20, 2010 Blue Goose Alliance President, Don Redfearn sent a letter to the Director of the Fish and Wildlife Service requesting that management deficiencies at the National Bison Range, Montana be addressed. On June 2, BGA President Ron Fowler sent a follow-up letter. Neither letter was acknowledged and no response was received. On July 25, 2011, the following letter was sent to Fish and Wildlife Service Director, Dan Ashe.



MISSION:

*To Promote The Establishment Of The
National Wildlife Refuge Service
As A Separate Agency Within The
U. S. Department Of The Interior*

6512 Williamsburg Blvd.
Arlington, VA 22213-1329
July 25, 2011

Mr. Dan Ashe
Director
U. S. Fish and Wildlife Service
1849 C St. NW
Washington, D.C. 20240

Dear Dan:

It has come to my attention that you had an informal discussion about the National Bison Range (NBR) with Secretary Salazar and Susan Reneau on July 16 in Montana. I understand that in the discussion you indicated you had visited with me at the "Conserving the Future" conference earlier in the week, and that I had indicated the Blue Goose Alliance (BGA) was in agreement with the management at the NBR since the District Court decision that negated the Annual Funding Agreement (AFA) with the Confederated Salish and Kootenai Tribe (CSKT) on September 28, 2010. I would like to take this opportunity to set the record straight as to the Blue Goose Alliance's position on the present and future management at the NBR.

Our basic concern is the future administration, welfare, and continuing integrity of the National Wildlife Refuge System. We contend, and it was made clear in our complaint against the Secretary of the Interior and the Director of the Fish and Wildlife Service – AFAs cannot legally include programs, functions, services, or activities that are deemed to be inherent Federal responsibilities. If allowed as presented in the AFA with CSKT, the entire Refuge System is under threat. The Service, in the 1990's, initially opposed proposals by CSKT containing language that encompassed inherently federal responsibilities or that were not permissible under provisions of the National Wildlife Refuge Administration Act. The CSKT has been candid in stating their intent is to take over the management and to have the lands of the NBR to "revert" to the Tribe. That is simply unacceptable, and not allowable without an Act of Congress. Any entity, whether a Native Tribe, State Game Department, another Federal Agency, or a private organization is not permitted by law to assume management responsibilities of a National Wildlife Refuge – each unit functions as an inherently federal part of the whole.

We neither agree nor disagree with the actions that have been taken to bring the staff levels back to what existed before the AFA with CSKT was signed in April of 2008. We currently lack sufficient details to be fully informed, and believe generally that, so long as Civil Service regulations and policies have been followed, the decisions related to employment should normally be made by the agency. We have closely followed the employment situation at the Bison Range Complex since 2002, and can say that we have witnessed a number of very

trained, successfully accomplishing the programs, functions, services and activities at the Complex, but were abruptly disrupted, provided a very limited range of alternatives, given little, if any, support by the Regional Director or the Personnel Office, and essentially were forced to make career-changing (in some cases, career ending) decisions.

We were informed recently by Region 6 personnel that the Fish and Wildlife Service (FWS) has recently opted to hire several former CSKT employees, while also selecting some new federal employees. We are aware that a NBRC employee was advised that he could not return to the NBR staff. The employee involved is highly qualified, a dedicated, long-term, fully successful worker, who desires to be relieved of onerous daily travel demands of his current position. It certainly seems that this employee's skills and dedication deserve FWS recognition and accommodation. It is shocking that FWS might allow outside influence to dictate personnel practices.

As a recently installed Director, you may not be aware of the contentious situations resulting from the assignment of management at the NBRC to the CSKT under flawed AFA's. It was and has been costly in terms of disruption of the management programs at NBR and to the community at large. The businesses of refuge supporters have been boycotted. Seven personnel actions are currently winding their way through the Office of the Special Counsel and ultimately to the Merit Systems Protection Board. Recovery of legal fees have been awarded and it remains to be reported by FWS just how costly it has been in total while sorely needed funds have been diverted from other refuge field stations.

As you assume the responsibilities for Director of the FWS the BGA looks forward to a return of the management at the NBRC to a reasonable normality, where wildlife and habitats again take precedence and the staff are brought together as a "team" working to accomplish the priority tasks in a respectful and friendly atmosphere. Putting the integrated pest management and control program back on track with a knowledgeable and astute biologist leading that effort would certainly be a strong step in the right direction. There is work to be done at the satellite refuges and all of the WPA's are in need of some attention. Refuge law enforcement has improved but could benefit from more attention, especially on the outlying areas. Bringing the staff to a high level of operational efficiency and at the same time building the mutual respect and normal courtesy of a group with a common purpose and supportive, knowledgeable leadership is also needed. The past eight years of disruptions, uncertainty, interpersonal strife and unmet expectations require time and good supervision to help mend the outcomes that have been experienced.

I trust the foregoing clarifies our position. Outsourcing management of any wildlife refuge is contrary to the Refuge Administration Act. Engaging in an AFA under the Indian Self-Governance Act, as was done in the past agreements, immediately changes the operational profile of the refuges involved placing them out of compliance with the NWRSA. Further, the manner in which those agreements were developed and signed was outside of all normal practices of the government under current statutes and the lack of appropriate public involvement became the primary, but certainly not the ultimate basis for a court injunction.

We believe the FWS can and must do a lot better; we are hopeful that you will choose a new path. However, we will wait for actual actions by FWS before we commit to being either “in agreement” or “not in agreement” with those actions.

I and the BGA wish you well in your tenure as Director of the FWS.

Sincerely,

/s/ Ron Fowler

Ron Fowler
President, Blue Goose Alliance

Cc: Ken Salazar, Secretary of the Department of the Interior

This Bulletin and all previous Bulletins are available in PDF format at <http://www.bluegoosealliance.org>

The mission of the Blue Goose Alliance is to promote the establishment of a National Wildlife Refuge Service as a separate agency within the U.S. Department of the Interior.

Ronald Fowler
President
Blue Goose Alliance
rfowler@bluegoosealliance.org
<http://www.bluegoosealliance.org>