

# Blue Goose Alliance Bulletin

#59 – January 13, 2009

Holland and Hart, attorneys for the Blue Goose Alliance, served notice on January 5, 2009 to Secretary of the Interior Dirk Kempthorne, Director of the U.S. Fish and Wildlife Service H. Dale Hall, and Regional Director of Region 6 of the U.S. Fish and Wildlife Service Steve Guertin, of Violation of Section 7(a)(2) of the Endangered Species Act, relating to the June 19, 2009 Execution of the Annual Funding Agreement with the Consolidated Salish and Kootenai Tribes of the Flathead Reservation, 73 Fed. Reg. 39713 (July 10, 2008).

This action was taken on behalf of the Blue Goose Alliance (BGA) to notify those individuals of the BGA's intent to file suit against the U.S. Fish and Wildlife Service (Service) and the Department of the Interior in 60 days for violation of Section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. 1536(a)(2).

The Section 7's consultation requirements apply to "all actions in which there is discretionary Federal involvement or control." The execution of the Annual Funding Agreement (AFA) was a discretionary federal action. As such, the Service was required to perform an internal, or intra-Service, consultation regarding the effects on listed species of entering into the AFA with the Consolidated Salish and Kootenai Tribes (CSKT) and changing the management of the National Bison Range Complex (NBRC).

One purpose of the notice letter is to afford the Service an opportunity to come into compliance by terminating the non-compliant AFA before the 60-day notice period.

The history of the Service entering into AFAs on National Wildlife Refuges, and particularly on the NBRC, has been opposed by the BGA for several years. The BGA regrets the massive loss of money, time, personnel and wildlife resources caused by the government's pursuit of actions contrary to legislative mandates and the effects on the integrity of the National Wildlife Refuge System.

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EXTRAORDINARY IS EVERY DAY**