

Blue Goose Alliance Bulletin

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The National Bison Range Issue - A Briefing Statement

In May of this year it was disclosed that Deputy Assistant Secretary for Fish, Wildlife and Parks, Paul Hoffman was negotiating under the Indian Self-Governance Act, with the Confederated Salish and Kootenai Tribes (CSKT) in Montana, for CSKT to assume management responsibility for the National Bison Range, Pablo and Ninepipe National Wildlife Refuges, and the NW Montana Wetland District, collectively called the National Bison Range complex (NBR Complex). It appears that such negotiations have been ongoing for some time, albeit behind the scenes. A recent Interior Department News Release announced, "a lot of progress was made" in meetings held in Washington, DC on June 9 and 10 between the two parties. Mr. Hoffman indicated that although a lot of work remains, it is his intent to have a proposed contract (they call it an "annual agreement") ready for final public review by June 30.

Faced with a June 9 deadline for initial public comments, several members of the Blue Goose Alliance quickly submitted statements to a volunteer coordinator in Montana, Ms. Susan Reneau. An author and associate with the Boone and Crockett Club for a number of years, Ms. Reneau is among those committed to retaining current federal management of the NBR Complex intact. She gathered about 800 comments and signatures opposed to contracting basic management responsibility for the NBR Complex to the CKST, and submitted them to the Montana delegation, the Department of the Interior (DOI), and the White House. Releases by the Tribes have made it clear that they intend to assume full management of the NBR Complex. They have announced plans for new roads and structures and to release most of the current professional staff.

Title II of the Indian Self-Determination and Education Assistance Act Amendments of 1994 (PL 103-413, the "Self-Governance Act," or SGA), instituted a permanent self-governance program in DOI. It provides that certain programs, services, functions, and activities, or portions thereof of DOI bureaus other than BIA, are eligible to be planned, conducted, consolidated, and administered by a qualifying tribal government.

Although most authorities in the SGA are discretionary, the Secretary is required to publish annually 1) a list of the programs, etc., that are eligible to be negotiated with the tribes; and 2) programmatic targets for DOI bureaus involved. Under section 403(b)(2) of the SGA, any services, functions, etc., that are "otherwise available to Indian tribes or Indians" can be administered by a qualifying tribal government. That provision authorizes the inclusion of programs eligible for self-determination contracting under the Act. Under Sec. 403(c) of the SGA, the Secretary may include other programs, etc., that are of "special geographic, historical, or cultural significance" to a self-governance tribe.

Under Sec. 403(k) of the SGA, annual agreements cannot include programs, etc., that are inherently federal or where the statute establishing the program does not authorize the type of participation sought by a tribe. While general guidance regarding what constitutes an "inherently federal function" exists, the Office of the Secretary will determine whether a specific function is inherently Federal on a case-by-case basis.

On April 5, 2002, DOI published in the Federal Register (Vol. 67 No. 66, pp. 16431-16435) the annual list of programs eligible for Fiscal 2003 consideration. That notice expires on September 30, 2003. National Park Service and Fish and Wildlife Service programs, etc., are listed (parts III (D) and (F)), including 34 National Park units, 31 National Wildlife Refuges, and 4 National Fish Hatcheries. The lists are lengthy, and generally include surveys, research, studies, management planning, construction, interpretation, subsistence programs in Alaska, and numerous other agency activities.

In addition to the work of Ms. Reneau, those known to be seeking retention of the management of Refuges by FWS and opposed to contracting with the CSKT include the Blue Goose Alliance, PEER (Public Employees for Environmental Responsibility), and the National Wildlife Refuge Association (NWRA). Most other national conservation organizations have not yet taken a public position on the issue.

Because the issue of what is "inherently federal" in FWS and National Wildlife Refuge management programs, etc., is a central matter of great importance, the Alliance has developed a position paper on the subject. The paper is based in the Constitutional foundations of federal wildlife conservation authority, and contends that both federal wildlife conservation authority in general and specifically the management of National Wildlife Refuges are inherently federal responsibilities. That paper can be accessed on the Alliance website, at www.bluegoosealliance.org, and will be the subject of another Bulletin. The Alliance will prepare and release additional position statements on other vital aspects of this important issue in the near future.

The Blue Goose Alliance, a relatively new national conservation organization, is committed to informing members of Congress, the public, and others about the urgent needs of the National Wildlife Refuge System. Its members include numerous individuals from ranks of the "Refuge Friends" groups across the country as well as many previous refuge administrators and managers.

For a copy of the position paper, access Alliance Bulletins or further information on the Blue Goose Alliance, please visit the website: www.bluegoosealliance.org, or contact Noreen Clough, President, Blue Goose Alliance, 4007 Wood Acres Ct., Duluth, GA 30096 (770-495-3750, or nkcinc@mindspring.com)