

Blue Goose Alliance Bulletin

#39 - October 11, 2004

Alliance Comments on National Bison Range Management

Recently, Bill Reffalt, President of the Blue Goose Alliance, submitted comments to the Fish and Wildlife Service regarding the Service's proposal to enter into an annual funding agreement with the Confederated Salish and Kootenai Tribes for management of major functions of the National Bison Range and other refuges. Because of the complicated nature of this proposal, Mr. Reffalt's comments are included in this Bulletin in their entirety.

October 4, 2004

Refuge Manager, National Bison Range Complex
132 Bison Range Road
Moeise, MT 59824

Dear Sir:

These comments on the proposed Annual Funding Agreement (AFA) between the Fish and Wildlife Service (FWS) and the Confederated Salish and Kootenai Tribes (CSKT) are submitted by the Blue Goose Alliance, a national, non-profit organization dedicated to proper management, maintenance, growth, and perpetuation of the National Wildlife Refuge System which is dedicated to the conservation of America's fish, wildlife, plants, and their habitats, to benefit all citizens.

Basis for Alliance Opposition: The Alliance opposes the proposal due to its unworkable, biased and expensive structure, abusive use of tax payer dollars, lack of accountability, unreasonable treatment of refuge employees, violation of Refuge System and other federal laws, and because it establishes an unwise and inappropriate precedent for public lands and natural resources policy. The AFA circumvents national law, threatens international treaty compliance, ignores civil service procedures and standards, violates the public trust, and usurps powers Congress has reserved to itself regarding disposal or transfer of National Wildlife Refuges, and their management. In short, it would be terrible public policy.

CSKT has repeatedly voiced its intent to "reclaim" and exert Tribal sovereignty on all lands within the former reservation boundary. Provisions in the AFA provide tools to facilitate a takeover of federally acquired lands within the National Bison Range Complex, at the discretion of CSKT. The AFA directs the diversion of annual refuge operations and maintenance appropriations, and includes automatic, uncontrolled, and undisclosed increases from refuge funding to CSKT. The AFA requires the initial conversion of up to ten refuge employees to an uncertain IPA status (i.e. positions paid for by the federal government but supervised and controlled by CSKT under the Intergovernmental Personnel Act), and anticipates that refuge volunteers will also be assigned to CSKT. The Alliance believes that the proposed AFA not only exceeds all reasonable contractual bounds, but, most likely, the intent of Congress in the law granting discretionary authority to the Secretary to sign such agreements. Using

discretionary authority to circumvent other statutory federal mandates, and intrude upon non-Bureau of Indian Affairs, federal employee rights, as this proposal would do, is beyond the authority granted, and is an abuse of power.

Most of the AFA's 57 pages of legalistic, often adversarial and strongly biased provisions are aimed at redirecting annual refuge funding and the supervision of vital staff and volunteers, claiming ready availability of refuge equipment, facilities, and services to CSKT, and assuring that resolution of any disagreements will be resolved in favor of CSKT. In violation of normal federal practices, the funding and staff transfers occur prior to any work being accomplished or a CSKT performance evaluation. The AFA also contains inadequate provisions for recapture of funds and federal staff control in case of unaccomplished, incomplete or unacceptable work. Apparently in anticipation of disagreements between FWS and CSKT, the AFA places burdensome requirements for documentation and detailed written instructions by the Refuge Manager, but fails to require similar standards for CSKT. Many provisions contain "Indian Law" legalese to assure that CSKT will prevail in any and all appealed or mediated disagreements. The AFA maximizes the initial and future funding transfers to CSKT (including unrestrained and undisclosed future CSKT administration assessments), but fails to calculate and present for public review the dollar amounts to be transferred. The automatic future increases required by the AFA remove discretion from the Refuge Manager and the FWS Regional Director to allocate budgetary resources to urgent problems on other refuges, requiring that the AFA defined Bison Range Complex allocations increase as the total regional Refuge Operations and Maintenance funding may increase. Explicit language throws wide open the door for CSKT to lobby Congress for even greater, and more certain funding and favors (normally a violation of law), at the expense of other units of the NWRs throughout the country. CSKT is permitted, indeed expected, to practice racial discrimination in hiring and firing, and would be exempted from Tort claim standards normally found in federal contracts and law. This places the visiting public and refuge employees at higher risk of accidents, without normal recourse, for improper, negligent actions of CSKT employees and volunteers.

This proposed AFA should not be signed, certainly not by any employee of the U.S. Fish and Wildlife Service. A complete fresh start, and full disclosure to the public is called for.

Important Background: "National Wildlife Refuges are maintained for the restoration, preservation, and management of wildlife and wildlands habitat for the benefit and enjoyment of the people." This quote, from a 1997 Oklahoma NWR leaflet, succinctly describes what our Nation's superb system of lands dedicated to wildlife conservation is about. The AFA created by the CSKT, and accepted by the politically appointed officials at the Department of the Interior in Washington, DC, gives only incidental attention to that vital, inherently federal charge.

The AFA claims that the refuge wildlife and habitats will be cared for to a proper degree yet the lists of tasks to be performed by the CSKT merely show incomplete highlights of an annual work plan, leaving a preponderance of required annual work to be inferred and assumed, rather than assured. Unfortunately, available evidence of CSKT attitudes towards refuge lands and wildlife protection are at best mixed, and in the worst case, openly disrespectful. In well documented situations at the Pablo National Wildlife Refuge, CSKT has conducted activities and taken actions judged by Refuge Management to be incompatible with refuge programs and the migratory wildlife involved. CSKT has constructed a paved-track motor raceway immediately adjacent to (actually illegally intruding upon) refuge lands. They have operated an open pit rock and gravel mine that also intrudes into refuge lands, and they have fostered

incompatible grazing and farming operations on the refuge. Ninepipe NWR also has experienced incompatible grazing that violates terms of the permit. Attempts to bring these actions into legally required compatibility have dragged on for many years, yet remain unresolved. Such matters should be considered by FWS, Congress and the public in evaluating the sketchy promises in this proposed AFA.

The laws, regulations and policies governing the National Wildlife Refuge System and the federal government's relationship with Native Americans are very complex, and certainly do not mesh seamlessly. Information currently available to the public does not adequately address the interplay of these many laws. Interpretation of laws related to Native Americans, by established legal precedent and tradition, broadly favors outcomes most favorable, and beneficial to the Natives. How does that established practice potentially impact the NBR Complex under this AFA? Will all Refuge Manager decisions appealed by CSKT result in certifying its position and modification of normal refuge management practices, procedures, and policies? Would such outcomes result in changing the nature of the NBR Complex beyond the established NWR profile? Wouldn't that establish a new concept, possibly a parallel group of "AFA operated national wildlife refuges?"

It is important for the public to know that this AFA was aggressively sought by CSKT; it is not a result of FWS seeking to contract work at the Complex. The Refuge Complex has consistently accomplished its on-going mission with the funding, staff and volunteers at hand. It is also important to know that CSKT sought to assume full managerial and ownership control of that portion of the NBR Complex located within the exterior boundaries of the 19th Century reservation. That reservation was dissolved and opened to outside, non-tribal settlement between 1907 and 1934. CSKT wanted the entire NBR Complex's annual Operations and Maintenance funding (with automatic increases) transferred to it permanently in other words, CSKT sought (and presumably still intends to achieve) the takeover of the Bison Range Complex found within that original, now non-functional, reservation boundary.

CSKT has shown no respect for the work, intentions, and donations of the American Bison Society, and other Americans, that brought about the creation of the National Bison Range. Similarly, CSKT apparently dismisses as irrelevant the large sums of money (well over \$100 million) provided to them in the past for the lands in the refuges, as well as the millions and millions of dollars of public money, and the efforts and expertise from scores of non-tribal members who built and sustained the complex during 100 years of successful wildlife conservation. CSKT fails to recognize, or give any credit to the NBR for bringing many hundreds of thousands (millions ?) of tourism dollars into their communities over the years, or the numerous gifts of bison, elk and other free assistance to the Tribes throughout the history of the NBR Complex. CSKT seems to dismiss the NBR's major part in keeping the bison from extinction at the beginning of the 20th Century, without which their present claims could not exist.

Consistently, throughout the negotiations, CSKT has resorted to seeking favors and coercive influence from the political appointees in the Interior Department, having them overturn provisions believed essential by the refuge negotiator and FWS. The latest draft, as shown by records available through the Freedom of Information Act (FOIA), was created by CSKT, and "accepted" by the political level of the Department, above the level of the FWS Director. Subsequently, FWS leadership was simply told to release the document, and defend it. That process is a clear violation of refuge law, and a foreboding harbinger of the future.

This draft AFA is not a mutually negotiated set of agreements between the FWS and CSKT; it represents only the demands of CSKT, and there can be little doubt that it will lead to dissension, performance failures, and recriminations. The FWS would enter upon the agreement under authority of Public Law 93-638 (the ISDEAA), but the section of the law that applies is discretionary on the FWS. Accordingly, if any AFA is signed it should be administered not under ISDEAA, but as any normal federal agreement uncolored by the political status of CSKT, with no roadblocks to cancellation and full expectations of required performance.

Special Relationships based on History: The CSKT "special relationship" claims are the basis for invoking the Indian Self-Determination and Education Assistance Act, as amended, to demand this AFA. The Tribes have declared a special tribal relationship specific to the bison in the National Bison Range. A review of the claim shows that it was apparently accepted uncritically and without analysis at the Secretarial level of the Interior Department.

There are numerous, often differing and even conflicting accounts of the people, the numbers, and the history involved. The CSKT claim is based upon 4 (some say 6) bison brought to the reservation from Canada (?) in the 1870s, by Mr. Samuel Walking Coyote. The capture and transport of those bison were done as an intended offering of atonement for violation of Tribal marital conventions, and without any "save the bison" intent. That motive is well documented, and reinforced by the later sale of all the bison owned by Walking Coyote to a commercial bison ranching operation. Those captured bison were held in individual ownership, and never offered to the Tribe, as originally intended, until they, and their offspring, were sold in the early 1880s to two part-blood Indian ranchers, and added to a growing commercial herd. These ranchers, who emphasized "bison ranching" but also grazed cattle, utilized the free grazing available to them on the Flathead Reservation. Some bison from these ranchers were sold in the 1890s to a rancher in the Kalispell area, the bison rancher who later sold bison to the American Bison Society for the National Bison Range. Thus, the association between the tribes and those bison consisted merely of about 20 years of grazing on the reservation while they were held in private ownership before being sold off the reservation.

Meanwhile, in 1908, efforts by William Temple Hornaday, first President of the American Bison Society, and other conservationists including Assistant Director T.S. Palmer of the U.S. Biological Survey, culminated in a statute directing President Theodore Roosevelt to establish a permanent National Bison Range in Montana, and ultimately appropriating about \$30,000 for land acquisition (based on fair market value at the time), fencing, and construction of a cabin. In turn, the Bison Society agreed to purchase and donate an initial herd of pure blood bison for this new reserve.

This was the first time in U.S. history that Congress authorized using appropriations to acquire an entire land unit for wildlife conservation; it represents an important hallmark in the history of American conservation. The Bison Society (primarily Hornaday) also raised over \$10,500 from private subscriptions, with almost half the amount being raised in New York (including school children donating pennies, nickels, and dimes from their lunch money), and another one-third coming from the Boston area of Massachusetts, from Minnesota, and from the Philadelphia area of Pennsylvania; Montanans donated \$366. The subscription effort was prodigious and unprecedented; money came from 29 States, the District of Columbia, and three foreign nations (England, France, and Canada). Mr. Hornaday personally arranged the purchase of 34 bison from the Conrad Ranch near Kalispell (where bison grazed on the Flathead Reservation had been acquired in the early 1890s and added to others). The

Conrad's also donated two additional bison, including the dominant bull for the herd. In addition, bison from Texas and New Hampshire were donated into the NBR herd. Thus, the basic NBR herd was begun. Periodic genetic infusion from other bison herds has occurred over the years.

This history illuminates several things. The tribe held no ownership in, or undertook any tribal interaction with, any of the bison involved. The relationship between the tribe and the bison was short-lived, vicarious, and was severed when the owners sold the animals to off-reservation buyers. Uncatchable bison left on the reservation after the shipments to Canada were killed by poachers, rather than given tribal or other protection.

It required the actions of non-tribal members to bring bison back into the former reservation area. Each step in the series of commercial transactions eventually leading to the purchase and donation by the American Bison Society, involved a mixing of bison genes from other bison herds with those that became NBR founding animals. Of the more than 700 bison grazed on the Flathead Reservation by circa 1907-1910, beginning from a few dozen in the 1870s with some additions from other herds, more than 90% were sold and shipped to Canada, forming the basis of Canada's plains bison herd in Wood Buffalo Park.

The bison in the NBR today would not exist but for the obvious, essential role of the American Bison Society, William Hornaday, the U.S. Congress, the U.S. Biological Survey, and many other Americans (including those New York City school children and other donors) who, specifically and unambiguously, set out to "save the American Bison" by vigorous actions.

Whatever "special relationship" that might exist, in fact, between CSKT members and the NBR bison, it cannot diminish and should not be permitted to ignore the "special relationship" of the thousands of non-tribal persons linked to those that gave a vital and significant contribution to the NBR bison, and the other resources within its borders. There can be no question that without those efforts and contributions, there would be no National Bison Range, and no NBR bison. In addition, the NBR has been maintained and sustained throughout the past century by federal appropriations originating from all Americans. It also required the diligent and successful efforts of uncounted Bison Range employees who created, and now sustain, the success embodied in America's world-renowned NBR.

The extra money appropriated to pay CSKT members a second time for lands in the NBR, and lands in the other refuge units, also came from general treasury revenues (i.e. public taxes). This amounted to considerably more than \$2 million for the Bison Range lands alone, plus added amounts for the other refuge units, plus accumulated interest payments dating back to 1907 bringing the amounts into scores of millions of federal dollars. During that time, CSKT elected to make claims for additional monetary rather than of a special relationship with the NBR Complex.

One must wonder why the very pertinent special relationship of non-tribal persons to the NBR Complex and all of its wildlife are not recognized or respected in the AFA, or in any other CSKT publication. A takeover of the NBR, as contemplated by CSKT, for its own narrowly-based ends would be an affront to all Americans that have a common ownership claim on the refuges and wildlife, and who expect the NBR to continue to deliver broad public benefits, as in the past.

Refuge Employees Deserve Respect for Their Rights: The heart of every National Wildlife Refuge is its staff, especially one operating intensive programs for large mammals on limited, fenced habitats while also managing a diverse, scattered group of other refuge habitats. National Wildlife Refuges often operate with only a few talented, personally committed, and cohesively organized staff. Long year's of experience, superior practical knowledge and ability, and a personal belief that their work is important and beneficial to all Americans are common traits of refuge personnel. Only by operating as a team, under leadership respected for their own demonstrated knowledge and capabilities, whose members are willing to step in and shoulder a greater share than necessary, when necessary, can these too few people accomplish the overabundance of tasks needed to successfully maintain a place for Wildlife First!

The managerial arrangement created by CSKT splits staff supervision, placing as many as half of the permanent personnel, including potentially all of the maintenance staff, the Visitor Services staff, a biologist, and the fire management officer under CSKT's "coordinator." That person, though meeting regularly with the Refuge Manager in liaison fashion, reports directly to and receives instructions from CSKT administrators. This arrangement is at least de facto supervision of federal employees by a non-federal entity, which breaches the inherently federal standard for what can and cannot be included in an AFA. Such an arrangement is a formula for disaster, and is disrespectful of the rights of the federal employees involved. These employees are the heart and soul of the refuge. The incumbents in those jobs have total in-place experience in excess of 130 years of dependable, faithful, and productive service. A large portion of the annual work program at the refuge simply cannot be successfully and safely done without these people, and their special level of knowledge, skills, and abilities. Sudden need for replacement of even one of these positions requires adjustments in the refuge operations program, and in-fill work by co-workers. Replacement of several or many over a short time could cripple the refuge's ability to successfully and safely complete vital refuge projects within normal time and money limits.

These faithful staff are now being told they have the choice of taking a position with CSKT, taking an IPA position paid for by the refuge, but under full control and supervision of CSKT, transferring to another refuge (fully restricted to time limits and availability) or they face the loss of their job. All of their years of service have been wiped away by the CSKT demands, and the lack of forceful defense by the FWS. What has happened to the often vaunted federal employee protections and rights? Since when does a decade or more of dependable, timely, and successful work not bring some job protection? How can this heavy-handed and unwarranted abridgement of sound employee practices be permitted to occur on the basis of applying a discretionary authority to sign an AFA as against their long held rights? Do these employees have no spokesperson or protector in the FWS after all of these years? Do they not have, at a minimum, the right to arbitration? Do they not have the right to legal counsel paid for by the federal government? What has happened to the normal equal protection for all citizens under the Constitution? Did the Congress really intend this unorthodox and strained application of the ISDEAA discretionary authority into natural resources management, and at the cost of loyal employee's rights and privileges? Should this inordinate cost to the refuge and these employees not be cause for rejecting an AFA that already has numerous deficiencies?

The AFA contemplates that refuge volunteers will be supervised by the CSKT. However, it has been disclosed that necessary coverage under the federal Tort Claims Act is not possible for volunteers under that arrangement. Thus, it can be expected that the refuge will be unable to rely on the number and quality of experienced volunteers in the

future that it has been used to in the past. This loss adds yet another reason that the current refuge employees, with their decades of experience, dedication, and productivity at NBR, are inherently central to its operation. They must not be subjected to control by an organization that places profit margins, sovereignty, and native preference in hiring and firing motives and objectives far above conservation of wildlife, habitats, natural, historic and other resources, and providing broad benefits to all Americans.

The proposed "transfer" of staff to CSKT control, a splitting of resources that results in untenable managerial arrangements, should be abandoned. No successful business or government agency would attempt to operate with a such a bifurcated supervision. The proposed concept of meeting weekly, or more often, just to initiate the process of describing upcoming tasks, setting objectives and priorities, and then going through an uncertain, time-consuming reconciliation whenever CSKT inserts disagreement or wants changes, is an inherently complicated, weak, and costly managerial process. The NWRS cannot afford such unproductive and costly methods and practices.

Under the AFA, disagreements will, at a minimum, routinely prevent timely completion of necessary refuge work. In the worst case, they could place refuge visitors or refuge resources at undue risk from such delays. There are many provisions throughout the AFA document anticipating differences of opinion between CSKT and the Refuge Manager. However, the resolution process they dictate is intended to assure that all challenged differences shall be resolved in favor of the CSKT. Such provisions and split supervision open the way for gridlock on almost a daily basis. Given the negotiation strategy used by CSKT to obtain approval of this AFA, it can also be expected that appeals from Refuge Manager decisions will routinely be taken to political levels above the Director of the FWS. One can easily envision a strategy by CSKT to use disagreements and gridlock to convince the FWS and the Indian Committees in Congress that the National Bison Range, Pablo National Wildlife Refuge, Ninepipe National Wildlife Refuge, and the several migratory bird wetlands should simply be removed from the NWRS and handed to them.

Increased Operational Costs are a Certainty: Split supervision, delayed work and disagreements requiring mediation also are a sure formula for increased costs to operate and maintain the NBR Complex. The outcome will not be better management, or improved benefits to the visitors or the wildlife, just higher costs. In addition, the undisclosed administrative overhead costs to be claimed by CSKT are another new cost, lacking in any new benefits or improved operations. Although the costs are not revealed, and the likely increases are equally kept from public review, it is entirely within reason to expect that it will require between 30% and 50% more to operate the Bison Range Complex under the AFA. In addition, under the AFA, the refuge complex is left with inadequate maintenance, biological, and visitor services capabilities for the several other refuge units (such as Swan Lake and Lost Trail NWRs) for which it holds responsibility.

Loss of refuge volunteers reporting to the Refuge Manager is another inefficient and potentially debilitating aspect of the AFA. Across America, people have volunteered for their favorite refuge to help it provide essential maintenance and public services. They are used to refuge supervision, and they represent an enormously important pool of talented, tested, and reliable workers. Shifting their supervision to CSKT, resulting in the loss of such protection as Tort coverage, and probable loss of other supporting benefits, is likely to stymie prospective volunteers. To accomplish their work, which has become a planned and expected part of the refuge annual work plan, is likely to require new employees and funding. Work products from such new expenditures and inexperienced staff can be expected to be deficient in both quantity and quality.

Loss of refuge staff and volunteers and the funding to support them will surely cause need for another 20%-30% increase over current funding levels (and above the increases mentioned above) at the NBR Complex to permit refuge management to cover operations and maintenance work on the refuge units outside the AFA boundary. In the case of the annual bison roundup, now utilizing as many as thirty volunteers of proven experience, the loss of that experience and skill would severely hamper the work, and greatly increase the risks of injury and accidents to other participants. As with the sudden loss of several experienced permanent staff at one time, the refuge could easily be rendered unable to accomplish basic refuge purposes.

Volunteers requesting to be considered refuge volunteers, supervised by the Refuge Manager or other refuge staff, must be recognized and allowed under any final contract with CSKT. It is foolish in the extreme to require otherwise. The added costs in funding, manpower, and new overhead expenses must be identified, calculated and presented for public review prior to FWS accepting a proposed AFA.

The Proposal Violates Refuge System Laws: Evidence available under FOIA shows that the proposed AFA now before the public was developed unilaterally by CSKT, submitted to and accepted by appointed members of the Department of the Interior. That is in direct violation of the National Wildlife Refuge System Administration Act requirement that the Secretary of the Interior administer the National Wildlife Refuge System only through the Director of the Fish and Wildlife Service. Having DOI political appointees deal directly with the CSKT, overriding concerns raised by the FWS, and establishing a decision-making channel outside of that required by law, can only lead to further abuse of the law. Having the politically appointed Director of the FWS, or the similarly appointed Deputy, directed by Department appointees to sign an agreement they alone have accepted is still a violation of the law, especially when the record demonstrating that extralegal process is well established.

Because the authority to enter into an Annual Funding Agreement under the ISDEAA is discretionary, neither the Secretary nor the FWS is required to sign an agreement. This AFA, with an existing DOI promise to sign almost immediately after the public comment period ends, misuses that discretionary authority to override federal law preventing any agency or organization other than the FWS to manage, or co-manage, or have inordinate influence upon the administration of a unit of the NWRS.

The agreement, by splitting supervision of the Complex staff, raises the possibility that the refuge may be unable to achieve the purposes of the refuge, a requirement of federal law. The Refuge Manager has acknowledged in the press that loss of a number of staff in a short period of time could readily leave the complex unable to accomplish its basic work. Departure of staff, as a result of non-acceptance of the choices now provided them, or the onerous, disrespectful or otherwise improper handling of employees under CSKT supervision and control, or an intractable disagreement on matters of policy or practice, can easily render the refuge unable to function properly. It is unacceptable to place this complex of refuges into such a position using only discretionary authority.

The Alliance has previously submitted a detailed statement describing why National Wildlife Refuge management is inherently Federal.

[NOTE: That statement was attached to the Alliance's comments. However, to reduce the length of this Bulletin, the statement, which was previously issued as Bulletin #29 on June 20, 2003, may be read at:]

<http://www.bluegoosealliance.org/Bulletin29.html>

The Alliance contends that retention of sufficient staff to assure safe, timely, and complete accomplishment of refuge establishing purposes and System purposes, directly controlled by the Refuge Manager, is required in law. It also would be a violation of section 403k of the ISDEAA, prohibiting AFA assumption of inherent federal activities, and making unavailable to tribes any functions, services, etc., requested by the Tribe that are not available under existing law.

Such violation of federal law can be remedied only by reducing the number of federal employees available to CSKT control and supervision. The Refuge Manager must retain direct supervision and control of sufficient funds and staff to assure that the refuge purposes and System Mission can be achieved on a timely and continuing basis. Only after such assurance is made can any current or additional refuge staff be considered for non-refuge supervision. Even then, the splitting of supervisory control with a non-refuge organization will lead to inefficiency, confusion, and greater costs to accomplish less, and would be a bad idea. Close analysis of the situation is likely to result in finding that the minimum staff required to be under Refuge Manager supervision at the NBR Complex encompasses all of the current permanent staff.

NEPA Violation: Normally, when major changes in federal agency management strategies are proposed, when new practices will affect multiple stations or a large geographic area, when the changes are likely to be controversial, or when they are likely to have noticeable effects on public benefits and services, that agency conducts an "environmental assessment." Based on the analyses and findings in the assessment, the agency might then go further, define several alternatives, and complete studies and analyses for an Environmental Impact Statement. FWS has failed to do that and has failed to fully inform the public about the proposed AFA.

As required under the National Environmental Policy Act, the FWS should initiate a formal Environmental Impact Statement process on the proposed AFA. It is obviously a major federal action with enormous public policy implications and ramifications. The action is clearly controversial. This process should include public hearings and an extended comment period, provide detailed analysis, evaluation and thorough descriptions of major alternative approaches, features, costs, and the ensuing outcomes and impacts from contracting portions of the biological, maintenance, planning and public use programs on the NBR Complex. Such an evaluation would help the agency, tribal governments, the Congress, and the interested public to understand the likely costs and ramifications from signing any funding agreement under the ISDEAA.

The public does not have ready access to the information nor the expertise necessary to make judgements about such complex issues. The FWS has a basic responsibility and obligation to provide these analyses for the public to consider and weigh the concerns. More time and opportunity is needed for the public to speak to the significant precedent involved in this proposal. Preparation of an EIS is the best way for the FWS to develop and provide this information and public process. This currently represents a serious violation of law and should be rectified immediately.

The Proposal wrongly applies the ISDEAA to public lands and natural resource policies: The Alliance contends that the proposed AFA uses a discretionary authority granted the Secretary of the Interior in the Indian Self Determination and Education Assistance Act, in a manner never intended by the Congress. The unspoken intent of

annual funding agreements and their basis in the ISDEAA is about transferring money, creating jobs for tribal members, and increasing the influence of the tribes rather than improved management and protection of the public trust responsibilities vested in the National Wildlife Refuge System and its federal stewards. It is patently unwise to mix these objectives and permit degradation of refuge programs at the stations sacrificed to AFAs.

Refuge Management is inherently federal in part because 1) only the consistent application of the best management practices, 2) federal cooperation with the States is essential, 3) meeting U.S. obligations in International Treaties is vital, 4) federal cooperation and counseling with foreign nations is required, and, 5) making available the broadest public benefits compatible with fish, wildlife, plant and habitat conservation needs are essential to achieve its mandated purposes. There is no evidence that such a management program meets criteria found in the ISDEAA, or that CSKT's proposal has adequate features to accomplish such ends or to surmount the prohibitions found there.

Conclusion: The Alliance contends that the proposal improperly intrudes upon rights of highly qualified federal employees on the Bison Range, would establish a management structure uncontrollably more costly than current management, and would threaten the wildlife and habitats of the Complex by its unworkable structure. There are numerous indications that the proposal is intended to lead to complete turnover of the Bison Range Complex to CSKT, an unacceptable violation of federal law.

We believe the proposal should be abandoned, and any further negotiations between the Tribes and the Bison Range should be returned to full control of the FWS, and utilize normal contracting authorities, procedures, practices and evaluations under the National Wildlife Refuge System Administration Act, and related laws.

In summary, the Blue Goose Alliance opposes the proposed AFA with CSKT because it is bad public policy, wastes taxpayer's dollars, will damage the NBR Complex and the National Wildlife Refuge System, sets unacceptable precedent for more unworkable proposals, mistreats federal employees and willing volunteers, and may place visitors and employees at risk. The Alliance requests that FWS immediately initiate an Environmental Impact Statement on this complex and controversial major federal action.

Sincerely,
William C. Reffalt
President