

Blue Goose Alliance Bulletin

#69 – October 29, 2010

President Don Redfearn communicates concerns about National Bison Range Annual Funding Agreement to the Director of U.S. Fish and Wildlife Service

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.

As a result of litigation initiated by the Blue Goose Alliance, the AFA with the Confederated Salish Kootenai Tribe was rescinded by the U.S. District Court.

His letter follows:

**Blue Goose Alliance
1961 Marble Canyon Dr.
Bullhead City, AZ 86442**

October 20, 2010

Mr. Rowan Gould, Acting Director
U.S. Fish and Wildlife Service
18th and C Streets NW
Washington, DC 20240

Dear Mr. Gould:

The recent District Court decision in Blue Goose Alliance v. Salazar opens an opportunity for the Fish and Wildlife Service (FWS) to redress deficiencies in its “management” of the National Bison Range Complex in Montana (NBRC). We urge the agency to take this opportunity to overcome those deficiencies.

As was made clear in the papers filed in the District Court case, we believe the now rescinded National Bison Range Complex Annual Funding Agreement (AFA) was a violation of the National Wildlife Refuge System Administration Act of 1966, as amended, and the Indian Self Determination and Education Assistance Act as amended by the Tribal Self-Governance Act. In the AFA, the FWS delegated management authority to non-FWS personnel in clear violation of the National Wildlife Refuge System Administration Act of 1966, as amended. Further, we are not persuaded that any AFA (as reflected in that agreement to be under the Tribal Self-Governance Act) is legally permissible given the provisions of the National Wildlife Refuge System Administration Act of 1966, as amended. We urge you, Mr. Gould,

to specifically request the Assistant Solicitor for Conservation and Wildlife to undertake a comprehensive review of the legislative history of the NWRSA and the 1997 Refuge Improvement Act, which amended the foundation statute, to determine Congressional intent regarding delegation of refuge management and/or major refuge programs. Our review of those statutes has disclosed specific intent that precludes the type of contractual arrangement contained in the now rescinded AFA concerning the NBRC.

In addition, there has been an obvious lack of a fully considered and complete analysis by the FWS of the meaning of "inherently federal" when applied to units of the NWRS. We recommend that the FWS undertake such an analysis, national in scope and consideration, now. Refuge positions such as Assistant Refuge Managers (with responsibilities for separately managed satellite areas); supervisory biologists; supervisory outdoor recreation planner; supervisory ecologist, etc. should all be ranked as inherently federal. These positions are essential to federal functions due to their importance in achieving and in maintaining the integrity of refuge standards, policy, and regulations. Likewise, an administrative officer and lead clerical positions are critically important for proper control and expenditure of funds, and to the record keeping essential to maintaining required records to facilitate the Project Leader's ability to set priorities and accomplish the tasks considered vital to accomplishment of the mission. Other positions, such as Operations/Maintenance Foreman, and special needs operations/maintenance positions should also be carefully considered as potentially inherently federal, or as critically related to inherently federal functions and, therefore essential to federal refuge management. We highly recommend that FWS undertake such a comprehensive analysis and include the results in the NEPA documentation of any future decision regarding a contract or agreement with any non-FWS entity in connection with the operation of the NWRS or any unit within the NWRS.

We further believe that a comprehensive review of the environmental consequences of "out-sourcing" functions at national wildlife refuges is appropriate. This is particularly important given that the current list of projects (refuges) the FWS has identified as candidates for negotiating AFAs encompass over 80% of the total land area of the National Wildlife Refuge System (NWRS). We contend that a full Environmental Impact Statement should be prepared by the FWS and released for full public review, a policy that allows contracting with non-federal entities in connection with the implementation of major programs, services, activities and functions at refuges containing such a large segment of the System. The public has never been provided an opportunity to view the range of alternatives; the environmental impacts (including cumulative impacts); the impact upon costs and control of future budgets at refuges; nor the possibilities for under performance and modification of refuge standards at those refuges placed under an AFA or any other contractual arrangement.

We believe that completion of the urgently needed analyses and disclosures to the public will enable FWS to engage in any future negotiations with non-federal parties in an appropriate manner that doesn't threaten the very foundation of the System as a whole.

I would be happy to discuss any or all of our recommendations with you or your staff. My contact information is contained below my signature to this letter.

Sincerely yours,

/s/ Don E. Redfearn

Don E. Redfearn, President
Blue Goose Alliance

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cc: Regional Director, Region 6, Denver, CO

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<http://www.bluegoosealliance.org>

**NATIONAL WILDLIFE REFUGES....
WHERE THE EXTRAORDINARY IS EVERY DAY!**

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