

March 25, 2016



Dear Association Members:

Our Board wants you, our members, to be aware of an emerging issue, and to encourage you to assist us in developing any future course of action by our Association.

ISSUE: After failing to reach a reasonable agreement with the Confederated Salish and Kootenai Tribes (CSKT) for the co-management of the National Bison Range (NBR) in Montana, the Service has indicated that it would support legislation to transfer the NBR to the CSKT for management of the lands to be held in trust by the BIA.

BACKGROUND: additional information can be found on our website – <http://fwsretirees.org/>.

Our Board is generally opposed to the loss of any lands now within the National Wildlife Refuge System or actions that are not consistent with our heritage. We have been in touch with the Directorate and will be sending the Director a letter stating our concerns. We will continue to investigate the nuances of any proposal and keep you informed.

Numerous members have already voiced their concerns to the Director, the Secretary, and their elected officials. We encourage you to do the same. We do want to hear from you and learn of your thoughts and opinions as to what additional action the Retirees Association should take as the issue develops into some specific action by the Service or the U.S. Congress. Please mail or email any comments to me. I will share with the Association Board for further discussion.

Sincerely yours in the Service Family,

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National Bison Range Summary for Members of FWS Retirees Association (March 2016)

BACKGROUND: In 1855, the 1,245,000 acre Flathead Reservation was established under provisions of the Hellgate Treaty. Later, in 1904, the Flathead Reservation Allotment Act called for the survey and allotment of all lands on the reservation and the disposal of all "surplus" lands after the allotment. At that time, the general concern throughout the country for the survival of the American bison led to the push for the re-establishment of herds in various portions of their former range. The Indians of the Flathead Tribe supported a proposal to buy bison and place them on a government bison range to be purchased from the tribe within the boundaries of their reservation.

Thus, the National Bison Range was established in 1908 by President Roosevelt specifically to keep the American bison from becoming extinct. It was comprised of 18,766 acres of mostly unallotted surplus lands, all within the original boundaries of the Flathead Reservation. The federal government paid for those lands according to formulas contained within the Flathead Reservation Allotment Act. However, in 1972, the Confederated Salish and Kootenai Tribes (CSKT), dissatisfied with the original purchase price for the previous loss of lands to the entire reservation, including the Bison Range, sought additional monies. The U.S. Claims Court agreed and Congress paid a second time for lands removed from the reservation in 1909-1911. This time, the total amount given to tribal members and the tribal government was \$26 million.

In 1994, amendments to the Indian Self-Determination and Education Assistance Act instituted a program within the Department of the Interior. In areas having "special geographic, historical, or cultural significance," a qualifying tribe could become eligible to contract certain agency programs, services, functions and activities, or portions thereof. These activities are implemented with annual funding agreements (AFA) with the DOI. While these "programs" are eligible to be negotiated, there is no requirement that they must be negotiated or that an agreement is required. The Secretary publishes a list each year of projects and programs that are eligible for negotiation and inclusion in an AFA. The latest list was published in January 2013 and contains 35 National Wildlife Refuges, 4 Fish Hatcheries and 61 units of the National Park Service, among others. As of 2012 there were a total of 11 AFAs with bureaus within the Department of the Interior, including one with the Yukon Flats NWR in Alaska.

The FWS Native American Policy can be read in full here: <http://www.fws.gov/policy/510fw1.html>

The National Wildlife Refuge Association has guiding principles for AFA's: http://refugeassociation.org/new-pdf-files/AFA_Guiding_Principles.pdf

Representative letters from some of our members who have personal knowledge of management of the NBR are available on our web site.

THE CURRENT SITUATION: The CSKT and the Service have attempted to negotiate acceptable agreements for the co-management of the National Bison Range for several years. One was negotiated in 2005 but terminated by the Service in December 2006. The Service stated that the CKST had failed to perform work properly. It also cited a "work environment characterized by harassing, offensive intimidating, and oppressive

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behavior on the part of the employees of the (CKST), including...threats of violence, and retaliation.” (These quotes were taken from a notification sent to the CKST).

Another AFA was negotiated in 2008 but was terminated after two environmental groups sued and the court found that the Service had failed to comply with the National Environmental Policy Act in implementing the agreement. (Other issues not ruled on by the court included whether the AFA would transfer to the CKST “inherently governmental functions” or if it would be in violation of the Refuge Administrative Act or the Intergovernmental Personnel Act.)

Negotiations to develop an acceptable and legal agreement with the CKST for co-management of the refuge have continued but have not been successful. One obvious stumbling block is contained in a Tribal Mission Statement that states: **“We will strive to regain ownership and control of all lands within our reservation boundaries.”**

The Service apparently has now reached the conclusion that the original 1908 purpose of the National Bison Range, the conservation of bison, has been accomplished not only at NBR, but even more broadly in many western states. The Service recognizes that bison are a treasured physical and spiritual resource to the CSKT and that they have developed technical capability to manage the bison. The Service has stated that there are higher priority uses for the limited Service personnel and financial resources currently allocated to the refuge. Thus, it would support legislation to transfer the National Bison range to the CKST for management of the lands to be held in trust by the BIA. In our discussions with Service leadership, they said that this decision was made entirely within the Service (no pressure from within Interior or from political sources within government); that it was made primarily with regard to priorities and allocation of scarce resources; and that this situation is unique and will not set a precedent because this refuge is the only one entirely within a reservation.

WHERE DO WE GO FROM HERE: Our Board is generally opposed to the loss of any lands now within the National Wildlife Refuge System. We recognize that priorities must be set for allocation of scarce resources, and that priorities will change over time. We also recognize that the Service simply cannot manage all lands within the System to the fullest extent with the limited financial and personnel resources currently available. However, the NBR is part of a System governed by the National Wildlife Refuge System Administrative Act of 1966 and various amendments including the National Wildlife Refuge System Improvement Act of 1997. As a network of lands and waters, each refuge has an intrinsic value as part of the System. Additionally, this refuge has significant historical importance to the NWRS. The bison gene pool is unique and of value to all other refuges and federal land managers. The refuge provides nearly pristine habitat for native bird populations. The NBR provides outstanding visitation and education opportunities. It is part of the heritage that our Association has pledged to help preserve. The Service purchased these lands for all Americans to enjoy. The Board is concerned about the precedence that the proposal sets for the NWRS, for wildlife conservation, for public use, and for the agency’s heritage.