



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



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DEC 06 2006

To: Director
From: Regional Director
Subject: National Bison Range Annual Funding Agreement Termination

The purpose of this memorandum is to update and provide additional support to my previous recommendation to cease negotiation on the Annual Funding Agreement (AFA) with the CSKT and propose the Termination of Authority to Extend Performance Under FY 2006 AFA. This recommendation is based on the CSKT's poor performance of work activities under the AFA, and unacceptable working conditions at the NBR that have been created as a result of the CSKT performance under the AFA. To recommend another alternative, would be contrary to the Service's statutory mission and responsibilities under the Refuge Act and all other Federal laws and regulations to enter into a FY 2007 AFA with the CSKT.

First and foremost, it is management's responsibility to ensure that our employees work in a safe, productive, fair and supportive environment. Because of the administrative grievance that was filed by several NBR employees, an administrative investigation was conducted into the allegations raised. The allegations concerned working conditions, safety, malice toward Federal employees, cruelty of wildlife and livestock, and misuse of Federal property. During the fact-finding inquiries, it became clear that a chronic and pervasive workplace problem of considerable magnitude existed at the NBR. To temporarily resolve some of the confirmed conditions, one in particular, an extremely unhealthy work environment, we removed our affected employees from that environment pending the outcome of the administrative investigation. Upon completion of the investigation (see attachment 1) and management's review of the findings, it became apparent that the ongoing conditions could not be tolerated and that management action was necessary to correct the situation. Allowing our employees to be subject to the harassment and intimidation as described in the investigative report is not fulfilling our obligation as management. Of particular concern to me was the pervasiveness of the violations that are allowed by CSKT members and CSKT management. Unfortunately, involvement in the violations by CSKT management is setting a tone of acceptance of these wrongful behaviors that is not easily or quickly treatable. Indeed, as fact-finding inquiries were made by the Service, CSKT would not allow its employees to participate in those interviews and discussions. It is management's responsibility to ensure a safe and productive work environment for our employees, and the general public. Additionally,

the public has a right to visit the NBR under the condition established by the Refuge Administration Act. Safety of the visiting public has been and continues to be one of the highest priorities for the Service. Management must ensure that the public is not exposed to any real or perceived excess health or safety risks. Additionally, the public should not be subject to unprofessional conduct and improper behavior by CSKT staff while visiting the refuge.

Secondly, the CSKT performance under the AFA was not at an acceptable level for their first year and has not made significant improvement in spite of significant input and assistance from the Service. The Service reported in the 2005 performance report significant issues that have not been corrected to date. Although there has been improvement in the operations of visitor services and fire program activities during CY 2006, no significant improvement occurred in the biology program, despite expanded Service efforts to train, support and otherwise assist the CSKT in these activities. In addition, there was a significant decline in the CSKT performance results in the maintenance activity program in CY 2006. The inefficient management structure of the AFA combined with CSKT resistance to following Service standards and protocols resulted in the Service having to redirect resources away from other wildlife management programs (outside of the AFA activities) for second year. Attachment 2 is a report that outlines current performance shortfalls. Because of the performance deficiencies, as outlined in the report, I believe it is necessary to reassume NBR operations before irreparable harm occurs to Service property and mission.

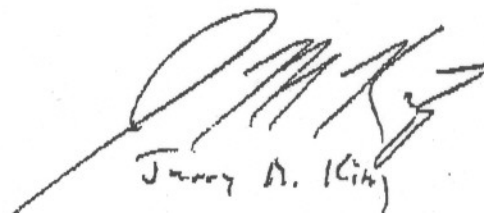
The legal constraint surrounding the current partnership with the CSKT is another obstacle that cannot be corrected to alleviate the issues and conditions at the NBR. Specifically, the CSKT tribal laws, including employment, and Federal regulations do not necessarily, nor do they need to, coincide. However, because the CSKT, do not operate under the same policies and procedures as the Service, it will be almost impossible for management to be in compliance with our legal mandates and directives with respect to the management of the NBR; and even more impossible for the Service to impose Federal policies and procedures on the CSKT.

You should know that in choosing my recommendation, I did consider other options, but after careful consideration, concluded that they were not viable alternatives. Specifically, I considered adopting an AFA that gave the CSKT control of total NBR operations. However, this option would not resolve the concern for visitors, and the unacceptable performance by the CSKT in their management of the NBR. In addition, this option would still require FWS oversight, and application of regulations and policies. Another option would be a complete divestiture of the refuge lands and property to the CSKT. While this may be a viable option, implementation would require Congressional action to remove the range from the Refuge System. As such, I believe that my recommendation is the only practicable option at this time.

In the event you approve my recommendation, attached you will find a draft letter to the CSKT notifying them of the Termination of Authority to Extend Performance Under FY 2006 AFA (attachment 3). I would request that you provide input to the draft letter. Once your comments are received and incorporated, we will finalize the letter for submission to the CSKT. However, prior to sending the letter, it is my plan to contact the CSKT verbally and discuss the rationale for the letter.

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I am confident that, that you will agree, that my recommendation is the only viable option to resolve the conditions and issues at the NBR. If you have any questions, please do not hesitate to contact me.



Regional Director

Attachments

cc: RO file