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January 3, 2007

SUBJECT: HKSA 1717-1

FISH AND WILDLIFE SERVICE NATIONAL BISON RANGE EMPLOYEES

EMPLOYMENT ISSUES

Lynn Scarlett
Deputy Secretary of the Interior
United States Department of Interior
1849 C Street NW
Washington D.C. 20240

Dear Deputy Secretary Scarlett:

This office represents the employees of the National Bison Range who submitted employment grievances and EEO complaints against the Fish and Wildlife Service (FWS) several months ago. I am writing to you directly because the issues raised by the employees have not been addressed in any fashion and because our repeated requests for information have been wholly ignored.

Our clients are seven of the eleven FWS employees who work at the National Bison Range, some of them having served virtually their entire careers there. These employees submitted an informal employment grievance to Region Six Deputy Director Jay Slack on September 19, 2006, arising out of intolerable working conditions on the Bison Range. The employees' claims stemmed from implementation of the 2005-06 Annual Funding Agreement between FWS and the Confederated Salish and Kootenai Tribes of the Flathead Reservation (CSKT). The employees – whose positions cover the gamut of professional and managerial positions on the Bison Range – alleged that FWS had allowed a hostile and unsafe work environment to develop on the Bison Range and had failed to control the situation over an 18-month period despite repeated requests from the employees.

Because of the serious nature of their complaints, Mr. Slack called for an investigation of the situation by an outside agency. The investigation was conducted in late October, and a report of the investigation has been provided to the Department. To the best of our knowledge, the investigation confirmed that unsafe conditions had been allowed to develop on the Bison Range, endangering the employees and the public alike, as a result of the CSKT's failure to properly use, operate, and maintain equipment, vehicles and other property, and its failure to ensure that personnel were properly trained for the jobs they were given. In addition, the FWS employees endured a work environment filled with harassing, offensive, intimidating, and oppressive behavior on the part of CSKT employees. We have submitted at least three written requests for a copy of the investigative report, as part of our request for the grievance files, and under the Privacy Act and the Freedom of Information Act, and no response has been provided.

The seriousness and validity of the employees' concerns have been acknowledged by FWS managers all the way to Director Hall. Regional Director Mitch King explained in detail in his December 11, 2006, letter to the CSKT that its performance under the AFA had "prevented the Service from meeting its responsibilities" at the Bison Range under applicable laws and regulations. Director Hall confirmed this finding when he authorized termination of the AFA and directed the FWS to "move forward to assure our employees and the public that the NBR is being managed to NWR standards."

Meanwhile, instead of addressing the employees' legitimate grievances, the Department has ignored and trivialized them, treating the matter as though an eight-hour training seminar on conflict resolution could resolve months of mismanagement and deteriorating working conditions. Ironically, on the day after the FWS and CSKT employees attended that training, at least one FWS employee was witness to a hostile and physically threatening tirade against his refuge manager by the leader of the tribal government as tribal employees looked on. This confrontation occurred after FWS employees had spent nearly two weeks working to keep confined bison properly fed to maintain good physical condition to withstand the stress of physical confinement and transportation. Despite repeated communication with the CSKT, the confined bison were not being sufficiently fed and FWS staff had to step in. For their efforts, the refuge manager was threatened and subjected to racially derogatory remarks.

Mistruths about FWS employees continue to be publicized on a regular basis. In spite of their hard work and dedicated efforts to implement an unprecedented joint agreement, FWS employees have been accused of responsibility for the CSKT's unsuccessful performance. Once the FWS took steps toward bringing the working environment at the Bison Range back to acceptable conditions and managing the Bison Range in accordance with National Wildlife Refuge standards, the FWS employees were accused of sabotaging the AFA and discriminating against tribal employees.

Now the employees have learned, through press accounts over the weekend, that the Department is going to re-establish the joint management arrangement and that tribal employees may be returning to the Bison Range by the end of this month, "if not sooner." (Dec. 30 *Missoulian* article quoting Tina Kreisher.) We have grave concerns about the Department's seeming expectation that these employees will just return to work, business as usual, in an environment that has grown increasingly perilous. One of our clients encountered a tribal employee at the grocery store over the weekend, who said words to the effect, "you'll know who the boss is now." The tribal chairman's threatening behavior toward the refuge manager in front of FWS and CSKT employees has made it clear that such threatening behavior is considered acceptable and may even be rewarded. How can the FWS employees be assured that they are being sent to a workplace where they will be allowed to do their jobs in safety and free from retaliation?

Many of our clients have poured their hearts and souls into the Bison Range. They have raised families and built lives around it. But they cannot continue to endure the harassment, intimidation, demeaning treatment, and substandard work performance that became the norm at their workplace, or the emotional distress and anxiety that has resulted. Some of them just want out and are willing to look at reassignment options.

Others, who want to stay on the Bison Range if acceptable working conditions can be restored, want to see the development of a management arrangement that does not set up the failures that have occurred here. A built-in incentive for the CSKT to drive the FWS employees from their jobs and an arrangement under which FWS program managers were left in place with no authority over the day-to-day operation of the program destined this arrangement for failure. The FWS employees – indeed, all of the people working on the Bison Range – deserve a well-planned and thoughtful arrangement that is clear and specific and provides a solution to the problems that have occurred under implementation of the previous AFA.

In the meantime, before these employees are asked to return to work under a joint management arrangement, the issues they have raised over the last several months need to be addressed and resolved. We sent a letter on December 19, 2006, to Lead EEO Counselor Ahmad Razavi, outlining the relief sought by each individual employee. We have received no written response, although Mr. Razavi has informed me that the FWS would not agree to our requests. Considering that a new management agreement appears imminent, some of the requests in our letter to Mr. Razavi may change for those employees who feel they can no longer stay at the Bison Range.

As Director Hall has stated, the employees are the FWS's "most valuable resource and deserve the respect they have faithfully earned." These employees have yet to receive a single communication directly from the Department acknowledging their concerns and requests for information or advising them of its plan for resolving the issues they have raised.

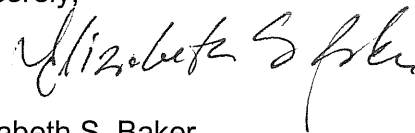
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The Department's press release indicates it will seek appropriate personal relief for the employees' grievances. It is critical that these grievances be resolved prior to any reinstatement of joint operations with the CSKT. We are willing to sit down and attempt resolution of this matter informally, but that must be done quickly.

We request a written response to this letter no later than January 10, 2007.

Deputy Regional Director Jay Slack advised the employees at the end of September that he would inform them of the results of the investigation and determine how to proceed. "At that point," he wrote, "if I am still unable to grant your relief, or an acceptable alternative, you will be allowed 5 calendar days to file a formal grievance." Since that time, the employees have received conflicting information from FWS, but no written response concerning either the results of the investigation or the agency's plan for resolving their complaints. If we do not hear back from you by January 10, we will assume that the relief is not going to be granted and the Department has not developed an acceptable alternative.

Sincerely,



Elizabeth S. Baker

bb:Scarlett.L1

c: Clients
Jim Cason (DOI)
Dale Hall (FWS)
Mitch King (FWS)
Jay Slack (FWS)
Ahmad Razavi (USGS)
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