



Case Briefing National Bison Range Complex Facilitation

The U.S. Institute for Environmental Conflict Resolution assisted the Confederated Salish and Kootenai Tribes of the Flathead Reservation and the U.S. Fish and Wildlife Service in negotiating a complicated annual funding agreement for the National Bison Range Complex, located in Montana, within the boundaries of the Flathead Indian Reservation.

NATIONAL BISON RANGE COMPLEX

FACILITATION

2007 to 2008

Background

Established in 1908, the National Bison Range is administered by the U.S. Fish and Wildlife Service as a National Wildlife Refuge with the goal of conserving the American Bison. The National Bison Range Complex, located in Moiese, Montana, consists of the National Bison Range, Pablo, and Ninepipe National Wildlife Refuges, and a portion of the Northwest Montana Wetland Management District. In addition to its mission to conserve the American Bison, the Complex provides important habitat for a variety of other species such as elk, pronghorn antelope, and migratory birds.



The Confederated Salish and Kootenai Tribes are composed of the Bitterroot Salish, the Pend d'Oreille, and the Kootenai Tribes. The Tribes occupy the 1.3 million acre Flathead Reservation in northwestern Montana. The entire National Bison Range Complex lies within the borders of the Confederated Salish and Kootenai Tribes reservation. In 1994, the Confederated Salish and Kootenai Tribes approached the Fish and Wildlife Service about exploring a management role at the National Bison Range under the authority of the Tribal Self-Governance Act, which permits tribes to petition bureaus within the Department of the Interior to manage federal programs that are of "special geographical, historical, or cultural significance" to the tribe. In 2004, the parties began implementing the first role-sharing management plan for the National Bison Range. However, in late 2006 tensions developed between the Fish and Wildlife Service and the Tribes about the management of the Range.

The U.S. Institute for Environmental Conflict Resolution's Role

To resolve their impasse, in 2007, the Interior Department's Office of Collaborative Action and Dispute Resolution (CADR) asked for assistance from the U.S. Institute for Environmental Conflict Resolution, a program of the Udall Foundation. In this instance, the U.S. Institute contracted with third party, impartial facilitators Jon Townsend, of Agreements Work, and Suzanne Ghais to assess the feasibility of using assisted negotiation to resolve the tensions.

The U.S. Institute conducted an assessment and determined that a negotiated solution was feasible. The negotiation process then took place and included balanced, voluntary representation of the parties. After five months of meetings and negotiations, on June 19, 2008, the Tribes and the Fish and Wildlife Service signed a three-year funding agreement, representing a government-to-government partnership to share management responsibilities for the National Bison Range. The signing of the agreement concluded the U.S. Institute's role in the effort.

Results and Accomplishments

Following a 90-day congressional review period by the Senate Indian Affairs Committee and the House Natural Resources Committee, the agreement became final on September 24, 2008. Immediately after signing the agreement, Interior Secretary Dirk Kempthorne noted,

“Forging this agreement was no simple task.”

In the words of Tribal Chairman James Steele, the signed agreement is an *“historic opportunity,”* and he added that,

“It is a day of great pride for many people because we will now be able to demonstrate that we can be innovative partners.”

The agreement, which was phased in during the first quarter of Fiscal Year 2009, outlines activities the Tribes will perform at the Bison Range during fiscal years 2009 through 2011. In September 2010, U.S. District Judge Colleen Kollar-Kotelly in Washington, D.C., found that the 2008 Annual Funding Agreement violated the National Environmental Policy Act and rescinded the agreement. In February 2011, a federal appeals court allowed the U.S. Justice Department to withdraw its appeal of the September decision. “We decided a long, drawn-out court battle was not the best way to protect the Bison Range resources,” Confederated Salish and Kootenai Tribes Chairman E.T. “Bud” Moran said in a statement published in the Lake County Leader. “We look forward to continuing our relationship with our federal partners.”

Credits

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