

August 13, 2012

Meet with staff to review AFA proposal and develop other alternatives

Attendees: Jeff King (refuge manager), Marlin McDonald (range technician), Brendan Moynahan (supervisory wildlife biologist), Karen Shoemaker (budget analyst), Pat Jamieson (supervisory outdoor recreation planner), Darren Thomas (engineering equipment operator), Brent Woodger (maintenance worker), Kelsey Guffey (seasonal biological science technician), Mike Koole (Federal wildlife officer), Amy Lisk (fish and wildlife biologist, term), Bob Rebarchik (assistant refuge manager), Laura King (refuge program specialist)

Laura gave presentation on proposed AFA

--answer questions

--discuss any proposed alternatives

--discuss EA

--affected environment

--alternatives

--environmental consequences

--select a proposed alternative

--public review & comment period

Administrative record—FOIA

Affected environment

Elements (resources, programs, public, etc.) that may be affected by the alternative

Habitat & associated wildlife

Visitor services

Cultural resources

Socioeconomics

--staffing

--contributions to community

--economic contributions of visitors

--demographics of surrounding community

Environmental consequences

--contractor

--independent

--impact analysis

Positive/negative

Affected environment

Review powerpoint presentation about alternative B

Questions/comments by staff:

How does an IPA employee work on our other non-AFA units if they are supervised by the Tribe's wildlife refuge specialist?

Should the AFA be modified to better describe how the .25 FTE funding can be used?

--staff vs. supplies

--use a dollar figure rather than the term FTE

Put an organizational chart in an AFA

--If that person is a supervisor over all programs and that program doesn't have sub-managers for each individual programs, there is going to be a break down.

There are no career-seasonal employees for the education and visitor services program

--not in the organization chart

FAIR Act—Federal Activities Inventory Reform Act

Can a GS-11 supervise a GS-12 lead biologist?

May not have a fire engine in the future

The .25 FTE funding should be used for wildfire operations

--planning, prescribed burning

Brendan should be part of the leadership team

--such a large part of our program

If you can't be the leader of your whole program then what's the point of IPAs

--very poor team building

Why can't we communicate directly with Tom McDonald (manager, CSKT FWRC), rather than through the CSKT refuge specialist?

What if the Tribe goes over their budget?

Leadership should be in charge of disseminating data

How does acquiring accountable property fit into FBMS?

This isn't going to work the way the current AFA is written

“for continued employment”

It's not stated what will happen to that employee if they don't want to choose any IPA options.

Certain conduct violations require that the Service give a mandatory LWOP penalty

--e.g. misuse of government equipment

--an employee could lose their job

The termination for cause is not reciprocated.

Can we talk to the Tribe now to get staff for the visitor center (prior to getting into an AFA)?

Add new professional positions to the current staff
--add to organizational chart

Beef up second paragraph
Add positions
Target CSKT members for lead positions
The 2008 AFA should not be an alternative
CSKT partnership alternative

The resulting alternative from this meeting was alternative D

10/10/12

Jeff King (refuge manager), Brendan Moynahan (supervisory wildlife biologist), Laura King (refuge program specialist)

Chapter 1—Purpose and Need
Chapter 2—AFA history
Chapter 3—Affected environment
Chapter 4—Alternatives and consequences

Cultural resources

10/15/12 Non-Admin Record (attorney/client)

Dana Jacobsen (solicitor), Sharon Brenna (solicitor), Dean Rundle (refuge supervisor), Jeff King (refuge manager), Laura King (refuge program specialist)

Discussion on sharing Draft EA with CSKT

Dana: [REDACTED] Exemt 5 AC

Should we even share the draft with the Tribe before we go to the public?

Request the Tribes input on information specifically related to the Tribe (e.g. treaty facts) for now

Sharon/Dana will advise us once we finish the draft

1/28/13

Dean Rundle (refuge supervisor), Jeff King (refuge manager), Laura King (refuge program specialist),
Brendan Moynahan (supervisory wildlife biologist)

Discuss draft EA to date

Change people to positions
--pending funding

Remove 'recruited' [before the term CSKT staff]

Healthy work environment

Change title of 2005 AFA allegations

Employee performance and conduct and safety

Conversation between myself and Sharon Brenna (solicitor), regarding her discussion with Barry Roth (DOI solicitor) about t [REDACTED]
[REDACTED]

What we feel, in our discretion, to turn over to the Tribe

Exempt 5 AC

Barry Roth told Sharon that, [REDACTED]
[REDACTED]

May 6, 2013

Dana Jacobsen & Sharon Brenna (solicitors)

Dean Rundle (refuge supervisor)

Jeff King (refuge manager)

Laura King (refuge program specialist)

Brendan Moynahan (supervisory wildlife biologist)

Discuss comments provided by team on rough draft EA

Purpose is X—in spirit...provide opportunities for tribes

Need is X—

Remove previous AFA factors for alternatives table and analysis

Co-manage

--rationale why it's not co-management

Repeat title

The resources that won't be impacted, say it.

May 9, 2013 Dean Rundle, Jeff King, Brendan Moynahan, Laura King

Discuss and review briefing presentation prepared for Noreen Walsh (Regional Director) and Will Meeks (Assistant Regional Director, Refuges)

Briefing

Not comfortable with agreement we've negotiated

Timeline—20 years [since CSKT started pursuing AFAs on the Bison Range Complex]

We didn't get what we wanted [in negotiations]

Some issues are not resolved through the negotiated AFA

Jeff needs to take over [as lead negotiator]

[REDACTED] [comment made by Barry Roth, solicitor] Exempt 5 AC

OMB guidance [inherently governmental and critical functions]

Convince her that what we got and what Rachel Jacobsen wants we're not thrilled with
--mention comment [made to CSKT tribal council]

We need the right to say no and do something different

Our employees know what happened in Region 3

10-15 minutes
--process

Sticky points

Tribe not pressing us

Unresolved issues

Drill down into the areas of the alternatives we can't live with
--why we don't think we can go forward
--pros and cons and different options

Noreen really needs to understand why we can't support what the agreement says

Thursday 1 p.m.

Region 8: agreement developing with tribes

What we need to do instead

Compounded by the number of staff in [left] my office

Remove [CSKT employees]--cancel AFA
--Brian made this statement [in negotiations]
--not stated in the AFA
--[only options for dealing with unresolved conduct issues of CSKT employees]

Dean's issues: giving the Tribe full program control

Our ability to control the operations of the refuge
--on the spot correction without having to check with someone else

IPA's

Not being in a position where we can walk away

Results of full programs
--do we have control of the refuge?

Can we keep enough lead staff to manage refuge

Affected federal employees
No one wants IPAs
what will happen to these employees?

Directed by someone that doesn't know what we do

No one loses their job

Morale

May 14, 2014 Conference call and Webex Meeting with Noreen Walsh (Regional Director, Region 6), Dean Rundle (refuge supervisor), Paul Santavy (in Regional Office in Denver, CO) Jeff King (refuge manager), Laura King (refuge program specialist), and Brendan Moynahan (supervisory wildlife biologist)—at refuge headquarters

EA Team gave a powerpoint presentation prepared by the team (Dean Rundle, Jeff King, and Brendan Moynahan) to the Regional Director discussing issues related to the negotiated AFA and recommendations.

May 30, 2014 Conference call and Webex Meeting with Will Meeks (Assistant Regional Director, Refuge), Dean Rundle (refuge supervisor), Paul Santavy (in Regional Office in Denver, CO) Jeff King (refuge manager), Laura King (refuge program specialist), and Brendan Moynahan (supervisory wildlife biologist)—at refuge headquarters

EA Team gave the same powerpoint presentation given to the Regional Director on 5/14 to Will Meeks --discussing issues related to the negotiated AFA and recommendations.

June 6, 2014 Conference call and Webex Meeting with Noreen Walsh (Regional Director), Will Meeks (Assistant Regional Director, Refuge), Dean Rundle (refuge supervisor), Jeff King (refuge manager), Laura King (refuge program specialist), and Brendan Moynahan (supervisory wildlife biologist)—at refuge headquarters

Laura shared a presentation prepared by the EA team discussing 6 specific issues related to the negotiated AFA agreement.

July 22-24, 2014

Meeting at the refuge headquarters to discuss challenges of negotiated AFA and develop an alternative that the entire team can support (per Noreen Walsh's request)

Will Meeks (ARD, Refuges), Dean Rundle (refuge supervisor), Jeff King (refuge manager), Laura King (refuge program specialist), Brendan Moynahan (supervisory wildlife specialist)

Laura gave a powerpoint presentation on the alternatives developed to date.

Discussed mutual agreements and the fate of individual staff under the proposed action, particularly IPAs and the two term employees (who are proposed to lose their positions under alternative B)

Exempt 5
Deliberative

Proposed New Alternative E: EVS, Fire, and WMD District Alternative
(3 new positions, 2 current FTEs (attrition), 2-8 seasonal staff)

- Primarily focused on management of Pablo and Ninepipe Refuge and the WMD
 - Tribal Trust Lands (Ninepipe and Pablo, 4,604 acres)
 - encumbered by a perpetual Service refuge easement
 - 9 waterfowl production areas (3,268 acres)
 - Service would collaborate with the CSKT Fish, Wildlife, Recreation, and Conservation Division on management objectives and activities
 - Provide CSKT with project funding and salaries for two new WMD positions
 - GS-11 wildlife refuge specialist (wetland management district manager)
 - WG-6 maintenance worker
 - CSKT FWRC would work closely with the Service's project leader and lead biologist to meet management objectives and design and implement projects.
 - CSKT WMD staff would also assist with programs and projects on the National Bison Range
- CSKT would assist with the Visitor Services program throughout the refuge complex
 - Provide funding for a GS-9 visitor services specialist
 - Work alongside the Service's Supervisory ORP
 - Develop and present programs to the public
 - Design and update interpretive displays
 - Interact with the public (~170k visitors annually)
 - Work with management to address issues and inform and educate the public
- CSKT would implement the refuge complex fire program
- Provide CSKT with funding for 2-8 seasonal positions—complex-wide duties (depending on annual funding)
 - Operate visitor center
 - Develop and present EVS programs
 - Maintain visitor facilities
 - Assist with biological projects
 - Assist with maintenance projects

- *These individuals would gain the knowledge and experience that could qualify them to compete for both career CSKT or Service positions*
- Provide CSKT with funding to conduct aerial surveys (big game and waterfowl)
- Collaborate on data collection and sharing between agencies (e.g. migratory birds, invasive species)
- Construction and deferred maintenance projects
 - Case-by-case basis
- Through attrition, provide CSKT with one additional maintenance position (GS-7) and one wildlife biologist position (GS-9)
- Service project leader and program leads would collaborate with CSKT in reviewing all applicants and making selections
- In addition to salaries, CSKT would be provided indirect costs, \$5k per employee (prorated for seasonal staff)
- The Service would always retain the following positions:
 - Project Leader
 - Assistant manager
 - Law enforcement officer
 - Lead wildlife biologist
 - Lead outdoor recreation planner
 - Two highest graded maintenance positions (mission critical positions—managing bison)

Evaluation Criteria (sideboards):

Any AFA Should:

- Support our refuge purposes and the mission of the Refuge System
- Ensure the Project Leader can effectively control and direct refuge operations
- Retain enough internal capability to manage the refuge (absent an AFA)
- Not violate any statutes establishing the refuge complex and the NWR System (as required by section 403(k) of the Self-Governance Act)
 - e.g. Game Range Act
- Maintain or enhance our ability to manage and better understand the resources of the refuge complex

11/7/13 Will Meeks, Paul Santavy, Toni Griffin, Brenan Moynahan, Laura King

Will brief EA team on meeting with Noreen, himself and CSKT

Meeting with CSKT went really well (October 31 meeting in Denver)

--not a whole lot of detail discussed [gave presentation prepared by Laura and Dean Rundle]

Tribal council members and Brian Upton, Dana Jacobsen, Sharon Brenna, Will Meeks, Dean Rundle, and Noreen Walsh

Timeline—angst—pushed back 4 times

Need an alternative—a bigger one

Makes EA more bullet proof to include a larger alternative

--Noreen disagreed

Discussed incremental alternative at length (alternative D and E)

--Steve Lozar (tribal chairman)—interested in it

--Brian Upton said they aren't interested in positions, program control important to them

We want to do something that is successful and is going to work—Noreen

Will has a different role now that Dean is gone

-replaces Dean on EA team

Will committed to overachieve on our new deadline

--Toni will help with this

Paul—not heavily involved in nuts and bolts unless acting for Will

Shared concerns about the EA

--There wasn't a clear purpose and need

--entering into an AFA

--this analysis isn't like anything we've done before

--we're trying to use NEPA but it's a weird fit

It struck a tone that was not balanced and even level (referring to first draft of EA)

Solicitor preview prior to going to the public

11/15/13 Will Meeks, Toni Griffin, Jeff King, Laura King, Brendan Moynahan

Brian Upton (lawyer for CSKT), Council member Steve Lozar, council member Ron Trahan, Council member Leonard Gray, and (not certain our council member name) present at briefing with Noreen (in Denver October 31, 2014)

Dana Jacobsen called in but Sharon Brenna was present

Tribe is not interested in number of positions—but full program control

--Brian Upton's position

Our guarded communication with the Tribe

--they are concerned about that

Brian expressed his dissatisfaction with the moving timeline

From Brian: In light of the timeline shift, we'll see what actions the council will take.

Not heard anything from DOI

Discussed how the council might be shifting in the future

Noreen and Will shared how we have concerns with IPAs

- communicated prior to this meeting with Brian
- everyone internally has concerns with IPAs
- if they don't sign IPAs what happens to our employees
- Will Meeks—they are indeed voluntary (referring to IPA agreements)

No consensus on this with CSKT

Will: We're blazing a trail now without national policy

Draft EA needs editing

Toni will be working on compiling editing comments from Will and Noreen

November 15, 2013

Will Meeks, Jeff King, Laura King, Brendan Moynahan, Toni Griffin, Dana Jacobsen, Sharon Brenna

General discussion about Brian Upton's continued request for a more robust AFA.

Dana [REDACTED]

Exempt 5
AC

No one can recollect guaranteeing Brian that there would be a more robust AFA.

At Bill's request, Laura shared Bill Mangle's proposed analysis approach—focusing on administration and refuge operations.

--no one opposed to approach

December 16-17, 2013

Environmental Consequences Workshop

List assumptions of each alternative

Cumulative—if an AFA were to be cancelled or rescinded what would be the impacts

Discuss what happens if the Tribe cannot hire a qualified individual

Staff

Bison Management

Big Game Management

Inventory and Monitoring

Habitat Management

Some of these effects are not speculative

Telling the story within the parameters of what we can and can't say

'what if' exercise

This is what we think our bench mark would be in the absence of an AFA
--2008 staffing model exercise

Different organization chart for each alternative

Add law enforcement—considered but eliminated

Decision to be made: The federal action is...

What happens in the negotiation process after the decision has been made

Purpose and need

Statute and tool

If AFA fails, staff would be recruited immediately

The experience is the most important part of being a refuge employee

Explore a range of outcomes

Alternative D—4 positions—automatic
--new positions evaluated for transfer

Variables for analysis

Partnership—purpose and need

Administration—lines of communication, authority, efficiency

Capacity—Positions needed were covered

Staff stability—qualifying staff, recruitment

Contingency—what happens if it fails

Cost to the Service

B is a two-headed monster

Optimal implementation of B

Some of these mitigating factors need to be built into an alternative
e.g. having the human resource office working together

Challenge everyone to think of positives and negatives

Exempt 5 deliberative

Idealistic, optimal implementation

We don't want to paint Noreen into a corner

Add GS-9 ORP to alternative C

The Service would list the parameters that need to be mitigated

Reconcile notes

--conference calls weekly

February 3, 2014—Conference Call

Will Meeks, Paul Santavy, Toni Griffin, Jeff King, Laura King

Will briefed us on the Headquarters meeting with CSKT

--George Waters (CSKT lobbyist), Chairman Ron Trahan, Brian Upton (CSKT lawyer), Dan Ashe, Jim Kurth, Cynthia Martinez, Steve Guertin. On phone: Will Meeks and Noreen Walsh

Dan—Goal of fostering a long-term relationship

Brian brought up the timeline and how they were troubled about how the prior AFA depicted them

Barry Roth (DOI Solicitor)—[REDACTED] Exempt 5 AC

Kurth talked about how day to day negotiations were done regionally

Blue Goose pushing us to start CCP—Kurth

Noreen committed to finishing the EA

--striving for implementation on the ground

Marv Plenert sent Will two questions in an email

--who's decision was it to release the EA in May?

Will responded to Marv's questions and will send me a copy of his questions and responses.

3/20/2014—Discussion on draft analysis chapter prepared by contractor (resulting from two day workshop with Service staff)

Conference call with:

Jeff King (Refuge Manager)

Laura King (Refuge Program Specialist)

Toni Griffin (Acting Chief of Planning)

Paul Santavy (Assistant Chief of Refuges)

Dana Jacobsen (Solicitor)

Sharon Brenna (Solicitor)

Bill Mangle (ERO, NEPA contractor)

Will Meeks is not able to make this conference call but Paul shared his written thoughts (from Will) with the group.

The group decided to proceed with the call even though Will was absent.

Redactions are Exempt 5
Deliberative unless
otherwise annotated

Toni will talk to Will and characterize this conversation for the group.

Discuss Will's proposal to eliminate the operational section

Toni asked Bill what would happen to the document if we eliminated the refuge operations analysis.

Bill discussed the basis for the line of analysis. We came into this with the unusual situation of having to analyze a staffing situation. We had to decide what can be evaluated—objectively. How can a federal action and alternatives affect something tangible.

Dana: [REDACTED] Ex 5 AC

[REDACTED]

[REDACTED]

Bill [REDACTED]

Dana [REDACTED] Ex 5 AC

[REDACTED]

[REDACTED]

Dana [REDACTED] Ex 5 AC

Dana [REDACTED] Ex 5 AC

[REDACTED]

Bill: [REDACTED]

Dana noticed that during scoping there weren't any comments about the environment. The scoping comments mainly addressed the proposed action (alternative B)

Laura: We gave the public the negotiated AFA alternative. The public did talk about how the refuge would be run but eventually they got to the point, that administration changes would affect the resource.

Dana [REDACTED] Ex 5 AC

Laura: [REDACTED]

Dana: [REDACTED]

Brendan [REDACTED]

Toni [REDACTED]

Laura reminded everyone that when we had a conference call prior to this meeting (with Sharon and Dana) and the rest of the team that she brought up the approach Bill was proposing, [REDACTED].

Paul shared Will's thoughts about the [REDACTED]—referring to Will's notes.

Paul agrees with Will and Dana [REDACTED]

Will [REDACTED].

Will [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Dana: [REDACTED]

Ex 5 AC

Jeff: [REDACTED]

When we first briefed Noreen almost a year ago, the EA team, which included Dean who negotiated this agreement, [REDACTED]

Dana [REDACTED]

Ex 5 AC

Jeff: Yes, that has been a question even before the negotiations.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Brendan— [REDACTED]

Paul: [REDACTED]

Will's comment (read by Paul): [REDACTED]

[REDACTED]

[REDACTED]

Laura: [REDACTED]

Jeff: [REDACTED]

Laura: [REDACTED]

Paul: [REDACTED]

Paul: [REDACTED]

Paul: [REDACTED]

Bill: [REDACTED]

Laura: [REDACTED]

Bill: [REDACTED]

Paul: [REDACTED]

Dana: [REDACTED]

Laura: [REDACTED]

Dana: [REDACTED]

Ex 5 AC

Laura: [REDACTED]

Dana: [REDACTED]

Ex 5
AC

Bill: this is clearly not a traditional EA, but these topics came from scoping and the issues section. Whether or not refuge operations—is considered as a resource—the other elements are variables that are rolled into this topic.

Paul: You guys have produced a document--not sure if some things should be in there. At this point we are going to hand all this over to Mitch Werner—editor. Toni will work with him to start editing the document to develop a final EA team document. Before it goes to internal review we would have another review with this team again.

Bill: [REDACTED]

Paul: [REDACTED]

Bill: [REDACTED]

Toni: [REDACTED]

Bill: [REDACTED]

Dana: [REDACTED]

Ex 5 AC

Brendan: [REDACTED]

Dana: [REDACTED] Ex 5 AC

Laura: Yes. [REDACTED]

Paul: Mentioned that was something he was going to address with Will. How do we deal with just that part of it.

Brendan: [REDACTED]

Bill: [REDACTED].

Laura: [REDACTED]

Paul: [REDACTED]

Brendan: [REDACTED]

Toni: [REDACTED]

Jeff: [REDACTED]

Paul: [REDACTED]

Paul: [REDACTED]

Jeff: [REDACTED]

[Redacted]

[Redacted]

Paul: [Redacted]
[Redacted] this document to show that
these negative impacts are so bad that we couldn't possibly do an AFA.

Jeff: [Redacted]

Paul: [Redacted]

Dana: [Redacted]

Ex 5 AC

Jeff: [Redacted]

Bill: [Redacted]

Dana: [Redacted]

Ex 5 AC

Paul: [Redacted]

Dana: [Redacted]

Ex 5 AC

Sharon: [Redacted]

Ex 5 AC

Brendan: [Redacted]

Paul: [REDACTED]

Dana: [REDACTED]

Ex 5 AC

Bill: [REDACTED]

Paul: [REDACTED]

Laura: [REDACTED]

Paul: [REDACTED]

Bill: [REDACTED]

Paul: [REDACTED]

Jeff: [REDACTED]

Laura: [REDACTED]

Paul: [REDACTED]

Meeting adjourned.

5/19/14

Meet with Staff to discuss EA and their comments

Jeff King (refuge manager), Laura King (refuge program specialist), Brendan Moynahan (supervisory wildlife biologist), Mike Koole (Federal wildlife officer), Pat Jamieson (supervisory outdoor recreation planner, Karen Shoemaker (regional budget analyst), Darren Thomas, Amy Lisk (fish and wildlife biologist—term), Francis Cahoon (maintenance worker—term), Marlin McDonald (range technician), Bob Rebatchik (deputy refuge manager), Dean Vaughn (Private Lands Biologist)

Staff have read document and brought their individual thoughts on the EA.

Staff provided individual comments at this meeting which were recorded and edited into a final draft of the combined staff internal review comments. These were submitted to the Regional Office during the internal review process.

June 18, 2014

Discuss internal review comments on previous AFA section 3.6

Will Meeks, Toni Griffin, Dana Jacobsen, Sharon Brenna, Jeff King, Brendan Moynahan, Laura King

We need to provide some background on the previous AFAs to show that we considered the previous AFAs in deciding to go forward.

Brian gave examples of how the 2008 AFA improved the situation from 2005.

[REDACTED] Ex 5 AC

[REDACTED] Ex 5 AC

Sharon re-wrote 3.6 based on Dean's original section.

The Tribe will not look at this again before it goes to the public.

Internal review is done.

The Tribe stated that they do have challenges recruiting and retaining AFA staff.

Dana [REDACTED] Ex 5 AC

Meeting Notes, July 9, 2014

Discuss CKST Internal Review Comments

Denver, CO

Attendees:

Sharon Brenna, SOL

Dana Jacobsen, SOL

Jeff King, Refuge Manager, NBR

Will Meeks, ARD, Refuges

Toni Griffin, Chief, Division of Planning

Brian Upton, Attorney, CSKT

Laura King, Refuge Program Specialist (on the phone)

Brian: From our perspective I don't think there is anything we can't find common ground on.

We want to know what the Service thought of the comments so that if we have some fundamental disagreements then we need to address that.

I would like to go back to Pablo and say that we went over the comments in some way—on their radar

We can also focus on the broader themes—harder look

Will: Some of the things such as the NEPA sufficiency--when it would come to litigation

Will: What is needed to make the 2014 AFA successful?

Will: How we handle the 2005 and 2008 AFA and how those are characterized—I become more concerned about dredging up the past—I think we need to cut those way down—straightforward as possible. I hear a little Brian voice saying as long as you don't breeze over it

We have court documents and certain things in the record that we need to consider

I think some of your comments will make the document a whole lot better.

Will: I just don't know to what extent the details of the past are needed for NEPA sufficiency. I've been leaning on the team and the SOL to figure out that right spot to be.

Brian: It's the thorniest part of the document.

Jeff: I was a little concerned about this meeting today because we have not had an opportunity to have this meeting before we talked as a team.

Jeff: You know Brian, when I came to the Bison Range—I said to the council, let's let the past be the past. I understand from you and Dana that we have to touch on the 2005 AFA, but I think where I'm at is how much do we have to touch on that as far as making it legally acceptable or defensible. I don't want to get to the point that the comments made by the Tribes—brings all this thorniness up again. We've had the same conversation internally. I think the 2005 AFA section makes some really loaded statements about the Service staff that aren't supported by the record.

Brian: What you did in the EA, is the substance that we wanted to have. If it's not clear in the document and it has considered the experience in developing the new proposals, but with the Service doing a fuller job and explaining it to folks, we think that's good, but some of the statements surprised me a little bit.

Brian: If there's one take away, we can recount the 2005 AFA and 2008 AFA in way we can agree on. I was really surprised that fencing was mentioned because it's not accurate from our perspective. Short of the Service doing a post-facto interview and taking all the Tribes comments into account, we don't think it's accurate.

We understand that some of the Service folks don't share that view. Now we want this to be a transparent process—were in a situation now in how our comments make changes in the document. As long as revisions are made and you are thinking of shortening that, we don't have a problem with that but we want substance. The Service did a good job laying out this experience. We think it needs to expand the 2008 AFA. We know the record is a very good one. If the EA can make that clear to the public and decision makers, that narrative makes the document stronger.

We make sure that the proposed action being put forth, doesn't cause environmental impacts so we need to talk about

Brian: Our analysis should sing the praises of the 2008 AFA. All it says is it worked well.

Jeff: The 2008 AFA didn't work well. That is why we wanted to change some things. That was a problem-getting projects completed, recruiting and retaining. I feel that we are going to have these same problems again recruiting and retaining qualified people. I never wanted the 2008 AFA to be open to the public so that everyone in the Missoulian would come.

Jeff: We tried to address those issues internally. There were things that didn't work well and my goal was that when we went into negotiations, there were some things that I wanted to get changed. We augured into the 2006 AFA, but again, I didn't write that section. But I also didn't want to get into the 2008 AFA, because a lot of things didn't worked well.

Brian: I'd like to see in the section where it talks about mitigation—there's a statement in there that may allude to this—that those 2011-2012 were geared toward trying to improve those agreements and those mechanisms.

Will: There were some things we want to add to the 2008 AFA that worked well. I'm looking to see, what is that balance. How do you tell that story for the reader?

Striking a balance

Jeff: The record is going to speak for itself---in the record we have for the negotiating platform.

Reviewing comments is where the rubber is going to meet the road. I think a lot of comments are going to be how the AFA allows the tribe to do functions that are inherently federal, etc. etc. There are no environmental effects—according the current NEPA document.

Jeff: We haven't had the internal review of comments yet.

We went through all these things and I feel comfortable or you need to call Will.

Brian: I'd like to get some sense of what you think of our comments

That would give me some sense of where we're at.

We talked about giving Senator Tester that update next week

If we're working through things, do you prefer we do a joint update in a couple weeks, we'd be amenable to that. I think we'd be in trouble if we delay it any more than that. We're going to D.C.

They're having a meeting July 15—related to the proposed amendments to the Self-Governance Act

We plan to travel in and testify

Brian: Nobody wants to get into the rehashing but because of what's in the EA, the council has to go on record as to what is now on the record. What I've understood, is that there was an understanding that the evaluations under the 2005 were not objective/accurate. They didn't want the tribes there or didn't

like the agreement. Nobody thinks the Tribe did a good job- beyond reproach, we are alarmed. The Service recognizes that throughout. There were some issues where the Service had issues about objectivity but doesn't come to a conclusion. But look, the record is this. The Service didn't make any conclusions—we need to do that—the key point to us was it true or not—is it a concern or not—if you can weave together all the statements that are already in there. If the Service makes a statement, there is a different perspective. It's clear that the Tribe were reevaluated differently than Service staff and that the evaluations weren't objective.

Brian: If the Service concludes that the Service doesn't see those evaluations to fair and accurate, then it needs to say that with a conclusion, regardless of what took place, the bottom line, the record that was created was not an accurate record of the Tribes performance. That is why we entered into another AFA because we didn't view it as things that the Tribe did wrong.

Brian: If you take all those allegations in 2005, there is environmental impacts by the AFA. We don't view that as an accurate depiction of the Tribe's performance.

Brian: I'm seeing this terrible record, but I don't see it occurring again in 2008. Is that accurate?

Will: Before I answer that Dana—what did we argue about the Tribe's performance in the court case?

The current proposed action was going to continue the activities in 2005

Do we have to go there? I don't think we need to go there.

We want to overbuild this document, because we don't want this cloud hanging over the refuge or the staff thrown off the refuge for a third time, we want to err on the side of being more inclusive on things. It's going to matter a lot what the judge thinks and they could take the easy way out and require us to do an EIS.

Brian: The agency can put a punctuation on the 2005 AFA that the evaluations were unfair. It would not be bullet proof if we don't clear the record.

Brian: I've heard from the agency that they don't think the evaluations were fair to the Tribes.

Would Dean say those things to you or was it Noreen or the Director?

Brian: Dean broadly said that he thought that wasn't a fair evaluation. I think that's all this document needs to say on behalf of this agency. They have to make up their own mind--leaves the document vulnerable.

You think we are close but we didn't go far enough.

Jeff: I have guidelines and I have policies to evaluate a FWS employee. With an AFA, I think what Brian is saying is that the Tribe wasn't evaluated like a Service employee. I don't think the authority was there to evaluate them like a Service employee. You don't have control over that employee so it's kind of apples and oranges how I would evaluate a FWS employee vs. a Tribe operating under an AFA.

Brian: The AFA didn't dictate a form on how it wanted to evaluate and couldn't have used the same standards as Tribal employees. I think that's a point that the Tribes were evaluated differently than they would have evaluated themselves. It wasn't an objective evaluation. You have Skip Palmer—working for an anti-Indian group. The investigator did some very little fact checking on the stuff staff was saying. I see that the EA says some of this but doesn't get to the point where we say our evaluation was unfair. It was not possible for the Service to make a fair evaluation of the Tribe in the 2005 AFA. The statements in there and we can replace this if needed. We talked about some of the court language. To what point does the court language come to some conclusion.

The DOJ briefs and how they address that issue—they mostly tell the judge because it happened in 2005, doesn't mean it could happen again in 2008. The DOJ report may not shed some light on this resolution.

You're not going to be challenged on the 2005 AFA—it's mute. We've moved on. It's not reviewable by the court. It's irrelevant to address this

There has to be some context—the court is nervous—there is some bad agreement wreaking havoc with the resource.

The third one has very little environmental effects contrary to what Blue Goose Alliance and PEER is going to say.

It would be nice to have a record that with the current AFA--none of those things are going to occur again. Some could argue that.

It could be argued that because of that record--an EIS is needed.

Will: The ultimate decision maker is Noreen so I'll make our recommendations to her. I don't even like the statement now that I read it. I feel a need to have a discussion with Noreen. She's not going to have the history of the 2005 AFA, but I do think I need to visit with her and see what she's comfortable with. I think we'll end up in a spot we're all comfortable with. I think it continues to build the case what things have changed since 2005—giving deference to the agency.

The agency has taken steps in every renegotiation to make changes to rectify and fix things

Jeff: We have not totally fixed all of the problems. We've taken steps to make it better, in my opinion there are other things that I hear daily, mostly related to IPAs

Will: We walked away saying 'we're good' so that train has left. If IPAs don't work, I know you'll be the first to say I told you so.

We definitely need to put in that we have put these things in place to address those issues so the reader understand what the agency felt in this case.

Will: I think it's clear that I don't think we're that far off

Who is the agency? Who thought some of the allegations weren't fair?

I have always felt that there were some pretty clear cut evaluations although no two managers are going to evaluate them the same way. We treated them differently and held them to a higher standard—just from what I've read not a first-hand experience.

Brian: Looking back on the record, it makes sense that there's no need to go back in time seven years, what allegations are correct, it's enough to know that we don't view them as an objective evaluation.

Jeff: None of you around the table were there.

Where does the accuracy lie?

To what level of detail do we have to talk about any of those issues? I don't think you point fingers but you can list those 'things' and address how we resolved those issues in a new agreement.

Jeff: We have an administrative record on what happened.

Jeff: I think saying that the Tribe contested these allegations is a factual statement, but that's as far as we should take it.

Paul: How about we say, we're uncertain as to the objectivity of the evaluation

Don't want to say it wasn't 100% objective.

Brian: We need to convey uncertainty that anything happened in 2005. I think that meets the Tribes needs so that no one can take the record and assume this all occurred.

Jeff: I was encouraged by Dean not to put things in writing in the 2008 AFA. I got to the point where—do I put this in an email--some of these performance issues. I felt that I tried to deal with them verbally directly with Mike and deal directly with Tom McDonald. I didn't want to go there where we're all over the front page.

Jeff: I decided to handle things internally and it gets back to how much do we need to add.

Less is more in this case.

Brian: I hear what you're saying that it didn't work well and you wanted to improve on it and I appreciate how you've handled that in the past. We're not trying to white wash what has happened in the past but the problem we've been dealing with--the workplace issue--gets put on record, it gets blown into a bison death situation—in the federal ranks, that wouldn't have been a big issue.

Brian: We appreciate the fact that you tried not to create a record.

Will: We have refuges that have completely dysfunctional staff—it is not unique that we don't have employees not doing what they are supposed to do. I want to bring an objective viewpoint that we all have staff turnover.

I've been trying hard so that this document can bear a little balance to what you referred to related to the 2005 AFA.

The concern about analysis and environmental consequences section. There's concern that there's not enough explanation about the conclusion. It's a very comprehensive section but it needs some more explanation.

--Jack Taholsky—1 1/2 year ago—NEPA guy.

Some analysis and then more robust analysis

Endangered species are not going to be impacted—there was no discussion on that.

We don't think it rises to the level of the bullet proof document that we want it to be.

I'm a little concerned about the public scoping part and didn't say anything about them. It gets to the overbuild part of it. There were some things in the scoping comments that we'd like to see addressed in the EA such as dispute resolution, IPAs, inherently federal functions.

I want to make a distinction that we're required to respond to scoping comments that are not NEPA related. I think our argument would be--we're not required to. These weren't subject to environmental analysis.

Dana: I don't think inherently federal is a NEPA issue.

Identify more of the issues identified during scoping and identify why they weren't addressed in the EA.

We'll respond to comments in the public review but I don't think you have any regulatory requirements to address scoping comments.

Typically we just state the issue that was raised—stating whether it was relevant to NEPA

An explanation of the issues, would take it off the table.

I don't want this document to be defensive—that we're not addressing these issues and here's why. It doesn't feel right.

I think we'll wait until public comments to develop a record of response.

Brian: I'd like to go through everything with someone so that if there are some fundamental agreements, I need to get that information to go back to the council.

Those were the issues at the top of the list—Dana leaves, 3:41 p.m.

We are going through the remaining comments line by line:

Brian: I'm getting spectacle that you'll get an EA out in July

Brian: The purpose is for both the parties to enter into it—meets federal goals as well as the tribes

If for some reason the Service isn't comfortable with having a purpose and need to clarify why the agency believes an AFA is needed for tribal involvement in the NBR operations, why an AFA? You all

address that in alternatives considered, but the analysis is tied to the purpose and need. It serves agency objectives—it's a much better foundation for the rest of this.

Will: We have met about this—I think this is a good and fair statement—an agency perspective—I think it's pretty accurate. This is not applicable to any other refuge—this is a good statement to make. I think it will head off Blue Goose with that statement right away.

We'll discuss the nuances of this with the group.

That was something Jack—NEPA was concerned about as well.

We took great pains trying to hire 3rd party neutral.

Add Tribes' appeal of the 2005 AFA.

Brian: Lyle Lavery memo is useful—Blue Goose would say that this was crammed down the Service's throat by the political appointees, but the Lavery memo puts that aside

Will: I think that we need to fill in the gaps in those

Brian: Does it talk about the actual CADR process? NO

Brian: The Office of Self Governance suggested a third party neutral in the 2008 negotiations.

Will: Let's add that in to fill in the gaps.

They helped evolve the things the way it did—in the 2008 AFA.

We don't want to be defensive about the scoping issues

The CCP process—I wonder if there's a drawback giving more information on this—discussing how other CCPs are done.

Will: We have a few remaining CCPs out there, we lost our planning budget---no new CCPs. We have some pre-CCP meetings going on—we can head off Marv Plenert and Blue Goose. I respect my decision to say, hey we're not doing any CCPs—we don't have people to do them. It may not get tied to the EA.

Brian: Is there any lawsuits for the Service not doing a CCP?
No, the suit was dropped

Brian: I was curious if there is any guidance on what you thought—if you feel you can say we're not going to do any CCPs because we don't have people to do them, then we need to say that in the EA.

Assistant Director: No new CCPs—the only exception is if we're doing refuges that don't have CCPs.
There no timeline established for completion

Will: We are not being directed to complete CCPs that aren't done in any time frame.

Will: We have two outstanding ones right now and we're doing those right now except for CMR.

We would like to have the statement that all alternatives considered but eliminated do not meet the needs under self-governance.

Laura: the only reason we do not have a CCP is because of the ongoing AFA negotiations

Brian: The Tribes position on what is inherently federal is not correct in the EA
Mutually agreed those would not be included [in negotiations]

Mention the MSU coop agreement in the affected environment section
In this discussion where it would make sense--these management actions are ongoing whether an AFA is in place or not.

I didn't articulate that in here, but I think we need to note that.

Jeff: The MSU agreement was a master's student agreement.

Will: I don't know if that agreement is a measure of consistency in management in the EA.

Do we have an agreement with MSU to discuss range health?

Jeff: University of Montana agreement is bird surveys

Jeff: Cooperative agreements have the lifespan of five years. I can put money into that and it can get rolled over for five years.

Brian: The bigger theme—that management doesn't change under an EA

Brian: Agency coordination: I put it in here in the event that it becomes a procedural issue
Is this representative of a standard EA or do you put a list in of preparers.

Will: This is unlike any EA that we generally write. To what extent do we list the preparers?

I think we need to ping Dana on this—whether we list the tribe as participating in the EA

Brian: When we initially got the message from the Service--the central office suggested that we just do a Categorical Exclusion. We said we think you need to do an EA. Part of that discussion was that somehow it's going to require an EA every time someone does an AFA. We should cite an EA regulation—to determine if an EA is needed or for a decision making tool.

Will: This document does not apply to other refuges—same logic. Clarify why we decided to do an EA—that could be a Dana question

Jeff: I think Greg S. was the chief and he had concerns that any future contracts would now require an EA. I don't remember any future AFAs being mentioned.

Those people weren't close enough the NBR to understand why a Catex wasn't sufficient.

Brian: I need to talk about the Badlands situation. Maybe that takes place in the FONSI. I still think it makes sense to put here—to state in the record why we didn't do an EIS even though the NPS did it for their co-management with the local tribe. Suggest we put something in the document how that's not relevant—if not the EA, then the FONSI document.

We had some smaller comments that might be useful, but these are things we're most concerned about hoping we can get on the same page so it's as bullet proof as we can get it. This is the foundation of hiring folks again. If the council isn't confident, they won't be comfortable—they won't do it.

Will: It's been clear since I stepped on the scene that this was the case

Will: Why don't I call you next to tell you how we're moving ahead on these things? We have to think about our whole suite of internal comments so I can get back to you on Monday in case there are some things we need to talk about.

Toni: Sara Prigan [HQ staff responsible for releasing NOAs] has got things moving again.

Brian: I'm pretty open how you want to handle an update to Senator Tester—something by phone or something later?

Will: I have a conflict on the 15-16

It's up to you Jeff if you want to participate in the Tester review.

Brian: Senator Tester is taking his lead from us on what update we need to give him. He wants to know are things moving forward—things moving well—can I move on or do I need to get involved.

If you want to do this physically, that's fine or by the phone. Maybe two weeks would be better. There is no scheduled time to meet with him. Tuesday or Wednesday.

Councilwoman Carol Langford is going back to testify on the self-governance bill amendments.

Will: I'll have to follow some protocol with our legislative folks so I don't do things wrong.

Brian: Why don't I just plan on telling council tomorrow that I discussed this and we'll try to schedule it later.

Will: I will send a notice to our congressional affairs folks so that we're covered just in case Senator Tester wants to talk about topics outside of the AFA.

Brian: if it doesn't pan out that next week will work, we'll have to schedule it—has to come pretty soon.

Brian: It's timely to do the update—the council wants to meet with Senator Tester.

Carol L. will be traveling on Monday to discuss the amendments to the Self-Governance Act.

Law review article: Montana law school last October--wants content and asked about an NBR article. I told them we're in the middle of the EA process—I was thinking about it and I thought it would make sense to put out there for law review world—to try and explain why we think this is a good idea. The last 20 years have been defensive and we need to explain why this is a good idea. I think the article is going to come out in September. The article—I'll get you copies—talks about the Tribes history with the Bison and what other countries are doing with joint management of refuges and parks in other countries. Kakadu National Park in Australia—wrote a big thesis on joint management—he's pretty upfront about difficult things—good and bad—it wasn't all sunshine and roses—it was interesting. It would be nice when we get past all this—take a look it on the ground where we going.

July 19 and 20, 2014. Review remaining EA internal review comments.

Reviewed compiled comments table summarizing all internal review comments. Filled in table on how the comment would be addressed (e.g. edit document or no change).

Will Meeks, Toni Griffin, Jeff King (all in Denver, CO), Brendan Moynahan, Laura King (on the phone)

Jeff tried to put it in the dispute resolution process—no reciprocating of 'cause' clause for CSKT staff

Add an issue—impacts to continuity and stability
--Will will decide whether to add this issue

We can't change the comments section

Will Meeks: I know what I did and when I did it—related to issues section

Send previous issues section to Will

Will: We can't change the negotiated AFA. Noreen is going to have problems leaving the negotiated AFA—we negotiated in good faith.

Jeff: I didn't think we were tied that tightly to alternative B.

It will take a lot for Noreen change her mind. Noreen's thoughts: It's a workable agreement

Will: Why would we negotiate anything we can't live with?

Jeff: Dean was feeling the pressure

Will does not agree that we negotiated an alternative—it's an agreement

Jeff: That thinking fits with what he heard about allegations that we are going to write the EA to fit the decision. We [Dean Rundle and himself] made it clear to the Tribes that we were negotiating an alternative.

Team continued filling in the table.

Will: No, we won't allow the term positions to expire if we don't get into an AFA.

National Bison Range AFA/EA Environmental Consequences Workshop

December 16-17, 2013

MEETING NOTES

Participants

USFWS National Bison Range staff: Jeff King, Laura King, Brendan Moynahan

USFWS Region 6 staff: Will Meeks, Toni Griffin

ERO Resources (consultant) staff: Bill Mangle

Monday, December 16, 2013

- Laura welcomed all participants and gave a general background of the issue and the process
- Bill provided an overview of NEPA requirements for environmental consequences, and distributed a handout detailing some of the key concepts, including USFWS/CEQ handbook guidance, ERO's proposed analysis approach, and NEPA definitions/guidance related to direct and indirect effects, reasonably foreseeable events vs. speculative, the rule of reason, and cumulative effects.
- Given the circumstances of the proposed AFA/federal action, the proposed analysis approach is as follows:
 - Refuge operations, as a "resource" is the primary issue and subject to direct effects
 - Secondary resource issues, subject to indirect effects, are the physical and biological resources managed by the refuge

Alternatives General Discussion

- Laura provided an overview of the proposed action (Negotiated AFA) and other alternatives (detailed in PowerPoint slides)
- The team discussed the details of the No Action alternative. It is not "do nothing," but is instead what the refuge would do in the absence of the AFA based on existing guidance and decisions. The effects of the action alternatives are compared to the No Action.
- Pre-AFA conditions (i.e., prior to 2005) are not the No Action, since staffing needs and the economic context has changed
- The Region conducted a workforce planning model in 2008, this can be a basis for staffing levels under No Action, but should be adjusted to reflect economic conditions and regional/national staffing trends within the Service over the past five years.
- The team discussed at length some of the logistical and philosophical concerns about the proposed action and the possibility of mitigating or improving some of those shortcomings.
- Full turnover of the refuge to CSKT or the addition of the law enforcement program was noted as concepts that were proposed by CSKT but dismissed because it does not meet legal requirements – this should be stated in the EA.

Purpose and Need

- The team reviewed and discussed the draft Purpose and Need statements
- Much of the current language reflects the purpose of the action, but does not necessarily demonstrate need. Why is the AFA needed?
 - In essence, an AFA is needed to implement the desire for tribal involvement and partnerships that are expressed in the purpose statement.
- Bill recommended a clear definition of the decision to be made: “The federal action is...”
- The team discussed the possibilities and implications of further negotiations and refinements to the AFA agreement/alternatives after the Draft EA is published. Bill noted that refinements to the proposed action or the selection of a different alternative are not unusual, and are OK from a NEPA standpoint as long as the substance and range of actions (and their effects) are considered and disclosed in the EA.

Discussion of Effects on Refuge Operations

Elements Common to All Alternatives

- Five-year agreement (was previously three years) – intended to improve staff recruiting potential with longer term.
- “Inherently federal” roles must be retained by the Service: Refuge Manager, Deputy Manager, Law Enforcement Officer

Proposed Action – Alternative B (Negotiated AFA)

- Proposed staffing levels (shown on the PowerPoint) were discussed
- Five Service staff would be subject to an Intergovernmental Personnel Act (IPA) agreement with the CKST
 - There is the potential that between zero and all five of the affected employees will sign an IPA – the actual number is not known because it depends on individual decisions by individual employees at that time
 - There are significant concerns that staff under the IPA agreements would not have sufficient job stability and would no longer be working directly for the refuge manager. Some or all of those staff would not sign the IPA – what would happen to those employees?
 - Will expressed a commitment from the Service to find a place for displaced employees.
- The team expressed that it is likely that no or few Service employees would sign IPAs, however it is also important to not speculate on those decisions and to not put the burden of Service implementation decisions on the personal decisions of a few individual employees.
- From an organizational structure perspective, Jeff expressed concerns about cumbersome decision-making and refuge administration under the proposed AFA model, which would not be consistent with “typical” refuge management and leadership practices. Eight of the eleven refuge staff would no longer work for the Service or be supervised by the manager.

- Key issues with the proposed AFA include more complicated and less efficient management, difficulty recruiting/retaining staff, difficulty finding well-qualified staff (consistent with FWS position requirements), and incompatible HR/payment/wage structures.
- The team discussed the range of potential effects to refuge operations if zero or all affected employees signed IPAs:

All sign IPAs:

- Incumbents would remain in key positions, including program lead positions
- However, vacated permanent staff positions become Service equivalent “term” positions when vacated positions are eventually transferred (5 year AFA agreement)
- Terms for dismissal of IPA employees creates a cloud of uncertainty for those staff and the refuge
- Some built-in training for new staff (due to the continued presence of experienced IPA employees)
- Possible that negotiated AFA could be successfully implemented

None sign IPAs:

- Five new employees in key positions; turnover in all program lead positions
- No assurances that new staff meet FWS standards for qualifications; may be less experienced
- Since new staff would be CKST positions, could create a workforce management issue – line of authority/communication
- Given recruitment and retention issues currently documented, can the Service assume qualified people can be found/hired/retained in these key positions?
- Past experience demonstrates that it is not likely. People can be trained up over time
- Many substantial concerns that the negotiated AFA would not be successfully implemented

- Given the concerns and potential shortcomings of the proposed AFA, what would it take for it to be successful? (Can be considered as mitigation actions)
 - Dedicate additional funds to CSKT to support new employee relocation – could help with recruitment of qualified staff
 - Ensure staff who do not sign IPAs are given reasonable security by the Service
 - Retain 3 program leadership positions for training and supervision of new staff
 - Improve mechanism for new staff to move up and gain experience before filling key positions (i.e., Service Pathways program)
 - Phased implementation – no requests for affected employees to consider a IPAs until 2 years in, thereby allowing on-the-job transfer of knowledge and training between the Service and CSKT, and also allowing Service employees to make a better informed decision on whether to sign and IPA. Phased IPAs may also allow staggered or incremental transition of positions through attrition.

- Improved tribal partnership – as drafted, CKST has no “skin in the game” to make it work; perhaps CKST should provide and fund the GS 11 tribal position outside of the AFA for better recruitment and better communication/administration
- Allow refuge manager to interact directly with Director and staff of FWRC Division versus the proposed GS 11 tribal manager position
- Remove AFA clause regarding termination of Service employees (page 21 of AFA: “...for disciplinary action...that is less than termination”) and remove or clarify cause for termination based on physical exam
- Change disciplinary action language regarding IPA employees
- Involve Service HR office in recruitment and hiring
- If AFA fails, hire CKST staff in to the Service system
- Link job announcement opportunities via both CKST and Service systems for better recruitment

Alternative C – Fire and EVS AFA

- Fire program – has been a successful partnership based on past experience
- Benefit to the fire program (same as B) – it is currently difficult to do fire planning and prescribed fire – this integrated approach would improve that
- Provides full program control for Fire
- Visitor Services program – successful past involvement of tribal staff in operating the visitor center and developing displays and programs stops short of full EVS program control
- This alternative benefits refuge operations by expanding existing successful programs
- From the CKST perspective, it doesn’t fulfill the intent for self-governance via full program control

Alternative D – Incremental AFA

- Seasonal positions would be initially transferred to the tribe
- Current Service staff would mentor tribal staff--similar to the Pathways program
- Over the long term, two term (maintenance and biology) and one career maintenance position would be transferred. Additional positions could be added
- Does not address the Tribe’s desire for program control on the National Bison Range
- What if the agreement is rescinded or not renewed by either party?
 - Service always retains 3 program leadership positions and additional maintenance position
 - Retain ability to manage the refuge and train replacement employees
 - More long-term stability
- This alternative can be strengthened by transferring positions to CKST when they become available. This brings increased risk of recruitment challenges but improves transition to a greater CKST role.

Alternative E – Incremental plus WMD/Pablo/Ninepipe AFA

- Same as Alternative D, plus full program control for Wetland Management District, Pablo, and Ninepipe Refuges, additional visitor services specialist position, all seasonal positions, and full control of the fire program
- Does not address Tribe’s desire for full program control on the National Bison Range because Service would retain program lead positions
- Positive effects through a net gain in capacity, stronger partnership with CKST, and addressing areas (i.e., WMD) that are not currently addressed

Tuesday, December 17

Potential Direct Effects to Refuge Operations

- After the first day’s discussion, Bill proposed the following structure/variables around which the analysis of effects on Refuge Operations could be described:
 - **Partnership** – Ability to meet purpose and need for a long-standing partnership with CKST; spirit of cooperation and compromise
 - **Administration** – Clear and efficient lines of communication/authority and accountability
 - **Capacity** – Positions that are needed to administer and manage the refuge are covered
 - **Staff Stability** – Recruiting and retaining qualified staff in key positions
 - **Contingency** – Ability to manage the refuge if the AFA is not renewed or is cancelled by the Tribe or the Service
 - **Cost** – Maximum implementation cost to the Service
- Evaluation of these variables for analysis are described in the following tables with the following symbols:

--	Moderate to major negative effect
-	Negligible to minor negative effect
0	No effect
+	Negligible to minor positive effect
++	Moderate to major positive effect
-,--	Varied effect (with, without) employees signing IPAs (under Alt B)

Redactions Exempt 5

Partnership—Does it support the Purpose and Need for a long-standing partnership with CSKT

Alternative A	Alternative B	Alternative C	Alternative D	Alternative E
■	■	■	■	■

Administration—lines of communication, lines of authority, efficiency

Alternative A	Alternative B	Alternative C	Alternative D	Alternative E
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Capacity—the number of positions that are needed to administer and manage the refuge are covered.

Alternative A	Alternative B	Alternative C	Alternative D	Alternative E
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Staff stability—recruitment, retention, qualifications of staff

Alternative A	Alternative B	Alternative C	Alternative D	Alternative E
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]
	[REDACTED]		[REDACTED]	

Basis for analysis of staff stability:

- Reference facts and publicly available information about known or anticipated effects
- Facts based on previous experience
 - Position recruitment/applicants for previous positions (FWS vs. CKST)
 - Staff turnover under previous 3-year AFAs.
- Plausible assumptions based on professional experience
 - Permanent positions are more stable than term positions
 - Concerns about stability of term positions less of an issue for lower-level positions
 - Without relocation costs, creates a smaller workforce to draw from
 - Retention of key staff is important for institutional knowledge
 - IPAs as a mechanism in the AFA creates a problem

Contingency—what happens if the AFA is not renewed

Alternative A	Alternative B	Alternative C	Alternative D	Alternative E
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

	positions (not [REDACTED])	[REDACTED]	[REDACTED]	
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Maximum Annual Cost to the Service (See attached table)—NOTE: These figures are no longer valid—they have been revised based on more accurate salary costs (plus benefits).

Alternative A	Alternative B	Alternative C	Alternative D	Alternative E
0	\$157,615	\$105,497	\$118,447	\$327,913

Indirect Effects to Refuge Resources

The team discussed the conceptual secondary/indirect effects of the alternatives on refuge resources, and had a more detailed discussion for a few resources. The intent of this discussion was not to complete a full analysis, but instead to discuss the types of effects that are more or less certain based on the staffing and operation changes that would occur under the alternatives.

Bison Management

- Capacity is a key issue – need a minimum of 5 qualified staff to safely move the herd (prefer 6) and achieve rotations
- Loss of stability due to a reduced ability to transition knowledge to new staff could become an issue
- A missed roundup due to insufficient staff would make it difficult to achieve herd objectives, resulting in potential resource/range impacts
 - Short-term: “plug the dike” with staff from elsewhere (occurred in 2010 with an emergency roundup)
- Bison management is likely the most impacted resource – it is the most directly affected by changes to refuge operations and is also the one that has the greatest direct influence on all aspects of resource condition and resource management
 - Central mission of the refuge
 - Relates directly to habitat management and other resources
 - Could result in loss of over 100 years of cumulative staff knowledge/experience
 - Worst case = failed AFA and only 3 remaining on site to manage bison

Habitat Management

- Administrative control associated with work plans
- Lost capacity or stability associated with staff turnover could affect ability to manage noxious weed infestations – lost-time could have detrimental effects

Research Program

- Clear administrative structure and lines of communication needed for cooperative agreements, funding proposals, and funding allocations
- Ability to initiate and foster long-term relationships between cooperators and Service staff

Cultural Resources

- Benefit from more CKST involvement
- Work with tribe on almost every infrastructure project
- Interpretation and cultural history benefits

Visitor Services

- Benefits associated with more CKST involvement

Maintenance

- Road and bridges – positive aspects of CKST relationship
- Capacity – additional CSKT staff would enhance ability to get the necessary work done
- Stability – some specialized knowledge associated with maintaining the auto tour road (steep slopes, etc.)

Planning

- Need to complete a long-term CCP for the refuge
- Stability – knowledge of refuge and resources is necessary on the planning team
- Would want CKST involvement either way
- CCP process is delayed until staff is sufficient – concern that the 5-year life of the AFA is not long enough to include a typical CCP process (2+ year AFA transition; 3-4 year CCP process)

Resource Sensitivity to Refuge Operation Variables

The team attempted to determine which refuge resources were more or less sensitive to changes from the various refuge operation variables described above. It was discovered through this exercise that the capacity and stability of staff on the refuge are the most important variables influencing the management of refuge resources. A table outlining this exercise is as follows.

	Partnership	Administration	Capacity	Staff Stability	Contingency	Cost
Invasive Species	■ption 5	■	■mption 5	■		
Bison Management		■mption 5	■	■		
Wildlife Management			■mption 5	■		
Inventory & Monitoring			■mption 5	■		
Habitat Management		■mption 5	■	■		
Research Program	■ption 5	■	■	■		
Visitor Services	■ption 5	■	■	■		

Maintenance Program (Infrastructure)	ption 5					
Cultural Resources	ption 5					
Refuge Planning		ption 5				
Safety		emption 5				

Attachments

1. PowerPoint slides from the workshop, including details of the proposed alternatives
2. Analysis of alternative costs to the Service



Environmental Consequences Workshop Agenda /December 16-17

MEETING PURPOSE

Review, refine and develop environmental consequences for the No Action Alternative, the proposed action, Alternative B, and three additional alternatives. On day 1 the discussion will focus on impacts related to the refuge operations and biological actions and the second day will wrap up biological consequences and address research programs, visitor services, maintenance program, cultural resources, refuge planning, and the cost of each alternative. The meeting will conclude with a discussion about cumulative impacts and assigning tasks and timelines.

Day 1: Monday, December 16th

- 8:00 am **Welcome – Laura**
- Workshop Purpose, Desired Products, Agenda
- 8:15 am **Introduction to Environmental Consequences – Bill**
- Review of NEPA requirements and Impact definitions
 - Approach to conducting this Environmental Consequences analysis
- 8:40 am **Quick overview of the 5 alternatives and how they differ from one another--Laura**
- 9:00 am **Discussion of Refuge Operations Environmental Consequences--Bill**
- Topics to discuss:*
- **Staffing**
 - **Bison Management** (Grazing Management, Herd Health, Annual Roundup, Meta-population Genetics Management)
- 12:00 pm **LUNCH (Pizza at Office)**
- 1:00 pm **Continue Discussion of Environmental Consequences**
- Topics to discuss:*
- **Wildlife Management** (disease monitoring, population management, T&E species)
 - **Inventory and Monitoring**
 - **Habitat Management** (Invasive Species, prescribed burning and wildfire response, prescriptive grazing programs, water management, habitat enhancement projects)
- 4:30 pm **Wrap Up and Plan for Day 2 –Bill**

Day 2: Tues, December 17

- 8:00 am **Review the Day's Agenda –Bill**
- 8:15 am **Continue with the Biological Environmental Consequences**
- Wrap up with topics from Day 1
- 10:30 am *Topics to discuss:*
- Research Program

- Visitor Services
- Maintenance Program
- Cultural Resources
- Refuge Planning
- Cost of each alternative

12:00 pm **LUNCH (at office—Subway)**

1:00 pm **Environmental Consequences Discussion (cont.)**

3:30 pm **Cumulative Effects**

4:30 pm **Wrap Up** –*Bill*

- Process for sharing workshop proceedings
- Tasks assigned
- Timeline for assigned tasks

National Bison Range AFA/EA Environmental Consequences Workshop

EFFECTS ANALYSIS APPROACH

USFWS/CEQ NEPA Handbook Guidance

- This chapter addresses the net difference between the environmental impact of the alternatives, including the proposed action, to the no action alternative.
- A conclusion should follow the analysis of each impact topic, particularly when the analysis is extensive or complex.
- The scope and depth of information in the EA must be sufficient for the decisionmaker to reach a conclusion based on the significance of the impacts
- The scope of analysis of impacts to be addressed in the EIS or EA should be dependent upon whether or not a reasonable, significant link can be established between our proposed action and the impact.
- The scope and depth of the EA should be “sufficient” for the decisionmaker to reach a conclusion on the significance of impacts in order to determine if the preparation of an EIS is required.

Proposed Analysis Approach

Confirm primary and secondary resources to analyze. Based on scoping and current knowledge of likely issues and effects.

Current assumptions:

- *Primary resource issue is refuge operations;*
- *Secondary resource issues are physical and biological resources managed by the refuge.*

For each resource area, consider:

1. What is the status quo and its effects? (i.e., No Action)
2. What are the direct effects of the AFA alternatives?
 - *Direct effects of alternative actions on refuge operations?*
 - *Direct effects to any other resources?*
 - *Are the effects reasonably foreseeable?*
 - *How do they compare to current conditions?*
 - *What is the basis for that determination?*
3. What may be the indirect effects of the AFA alternatives?
 - *Consider each resource topic area*
 - *Are the effects reasonably foreseeable?*
 - *How do they compare to current conditions?*
 - *What is the basis for that determination?*

Important NEPA Considerations

- **Direct Effect** - caused by the action and occur at the same time and place.
- **Indirect Effect** - caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.
- **Reasonably Foreseeable** - reasonably foreseeable events, although still uncertain, must be probable. This means that those effects that are considered possible, but not probable, may be excluded from NEPA analysis. There's an expectation in the CEQ guidance that judgments concerning the probability of future impacts will be informed, rather than based on speculation.

Case law findings include:

- "...the agency need not speculate about all conceivable impacts but it must evaluate the reasonably foreseeable effects of the proposed action."
 - An indirect impact should be "...sufficiently likely to occur, that a person of ordinary prudence would take it into account in making a decision."
-
- **Rule of Reason** - The "rule of reason" standard determines whether the EIS contains a "reasonably thorough discussion of the significant aspects of the probable environmental consequences." The "rule of reason" standard is applied in essentially the same manner as the "arbitrary and capricious" standard.
 - **Cumulative Effects** - Cumulative effects are "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such actions". Cumulative effects can result from individually minor, but collectively significant, actions taking place over a period of time.

Legal and policy references omitted.