**Grizzly Ridge Bison Ranch, Montana**

***Key Points***

* The U.S. Fish and Wildlife Service (Service) owns a conservation easement on 16,000 acres of the 30,000-acre Grizzly Ridge Bison Ranch (GRBR) property. The Ricketts Foundation purchased the property in 2019.
* Within the Blackfeet Indian Reservation, the Service has 59 conservation/grassland/wetland easements totaling 34,000 acres on privately owned lands. The GRBR is the largest Service easement on the Reservation.
* In 2017, a Service assignable conservation easement at GRBR was purchased by The Nature Conservancy from the Floweree Land and Cattle Company, LLC. The easement was assigned through a donation to the Service the same day.
* Service jurisdiction is limited to real property interests acquired in the easement and only applies to portions of GRBR within the easement.
* The conservation easement was acquired *to preserve and protect in perpetuity fish and wildlife* ***habitat****, including wetland, riparian and upland plant communities*,and the stipulations *limit the use of the property to activities that are consistent with the conservation purposes… including ranching and other agricultural uses, hunting, fishing, and those uses and practices consistent with the terms* of the easement document.
* Exhibit C of the conservation easement lists permitted uses and practices that are deemed to be consistent with the conservation purposes of the easement, which *includes* ***maintaining, repairing, and/or replacing******existing fences*** *that support agricultural uses of the property… provided that…* ***activities do not create barriers that inhibit the movement or migration of wildlife or cause long-term impairment to the wetlands or wildlife habitat*** on the easement.
* The boundary fence at GRBR is needed to contain livestock.
* There are various ways for fences to improve wildlife movement, including permanent or seasonal modifications (e.g., clipping wire strands together, opening gates), and designs can encompass all fences on a property or be placed in specific sections (e.g., pipe crossings).

***Timeline***

* **September 24, 2020:** Project Leader Ben Gilles and Wetland District/Easement Manager Jim Lange (retired) visited GRBR for the annual ground inspection for easement enforcement.
  + GRBR was approximately halfway through replacing the older boundary fence.
  + Jim Lange shared Blackfeet Nation Tribal members and other landowners had concerns regarding the fence project.
  + Ranch Manager Marc deManigold explained the different measures GRBR was doing to address fence concerns, including:
    - Removing the top strand of barbed wire from existing fence and the current construction design
    - Opening gates in pastures that bison are not using
    - Installing additional pipe gates to facilitate wildlife movement
    - Coordinating with Blackfeet Nation Fish and Wildlife to identify wildlife corridors and discuss alternatives for those areas, such as lay-down panel, lower fence sections, or install pipe gates
    - Contacting and/or coordinating with Blackfeet Nation Fish and Wildlife to assist any wildlife that appears to be having problems navigating the fence
    - Removing significant portions of interior fence on the property.
* **September 28, 2020:** A follow-up letter (attached) was sent to the Ranch Manager from Wetland District/Easement Manager Jim Lange. The letter stated the Service did not determine the replacement of the boundary fence to be in violation of the easement’s provisions. A copy of the easement monitoring report was attached to the letter, which did not identify conflicts with the interests that we acquired in the easement.
  + Easement interests are part of the National Wildlife Refuge System. Service policy and regulations (e.g., appropriateness and compatibility) apply only to the real property interests that we acquire through the easement document. The replacement of the boundary fence was allowed as retained right of the landowner as outlined in Exhibit C of the easement document.
  + The Wetland District/Easement Manager used sound professional judgement to assess whether the fence replacement activities were in violation of the easement stipulations.
    - The process for easement enforcement, including ground inspections, is outlined in the Administrative and Enforcement Guidelines for Conservation Easements in Western Montana. The Conservation Easement Monitoring Report used during the visit is in Appendix 8 of that guidance document.
    - As GRBR’s boundary fence was within the retained rights of the landowner, the Service could not apply our Appropriate Refuge Uses policy ([603 FW 1](https://www.fws.gov/policy-library/603fw1)), our Compatibility policy ([603 FW 2](https://www.fws.gov/policy-library/603fw2)), and associated regulations ([50 CFR 25.21)](http://www.ecfr.gov/).
    - The roll of determining if a proposed use (the fence is not a refuge use) is subject to the compatibility is delegated solely to the Refuge Manager [602 FW 2, 2.7(D)(1)].
* **October 21, 2021:**  Assistant Regional Director Stacy Armitage, Zone Supervisor Lisa Talcott, and Project Leader Ben Gilles consulted with DOI Solicitor Steve Hoffman on the fencing provision in the easement document. The Montana easement document, like the one at GRBR, includes permitted (Exhibit C) and prohibited (Exhibit D) uses. Solicitor Hoffman explained that the easement document was written in a manner that allowed the easement manager the latitude to use their judgment to permit or deny uses when the easement document is not explicit. This decision-making authority is broad and unless the decision made was an egregious violation of the legal terms, FWS’s position is strong and supported by previous case law.
* **February 15, 2022:** the Service conducted formal consultation with Blackfeet Tribal Council members (Council) regarding the GRBR fence. The Council expressed belief the fence is a violation of the Service’s easement and inhibits migration and movement of native ungulates through the Reservation.
* **October 17-18, 2022:** Service staff met with representatives from GRBR, Blackfeet Nation, and Independent Wildlife Biologist Christine Paige (fence and wildlife expert). **Note:**  *this visit included portions of GRBR within and outside of the conservation easement (i.e., outside our jurisdiction).*
  + GRBR representatives and Tribal members discussed and identified additional wildlife crossings that could be installed to enhance wildlife movement. Crossing locations included areas on and off the easement. Specific tasks identified during the visit included:
    - GRBR would build pipe crossings during the off-season. **Completed**
    - GRBR and Rickett’s Foundation would provide a digitized map of the ranch, with annotated boundary fence types and existing crossings, to mark areas where crossings may be needed. **Not completed**
    - GRBR would install crossing at identified locations. **Partially complete**
    - GRBR would work with the Blackfeet Nation to *potentially* install game cameras at some crossings.
    - Blackfeet Nation Fish and Wildlife would share elk movement data. **Not completed**