

Sign On!

Dear Director Skipwith,

As Friends groups supporting national wildlife refuges and national fish hatcheries, we want to express our concerns with the OIG report on the Friends program and our dismay with the U.S. Fish and Wildlife Service (Service) response. The report identifies many deficiencies in the Service's implementation and oversight of the Friends program. Yet, the Service response appears to focus on the OIG implication that Friends are spending donations inappropriately; this could not be further from the truth. The OIG's findings regarding expenditures by Friends are simply wrong. We are extremely disappointed that you did not push back on the OIG's interpretation of the governing laws and policy, but have instead embraced these findings.

Friends members pour our hearts into supporting our refuges and hatcheries, and donate countless hours and skill sets. In 2019, 38,276 volunteers, most of them members of the 218 Friends organizations, contributed 1,306,540 hours to the Service, the equivalent of over 650 FTEs, or an additional one-third of the National Wildlife Refuge System workforce. We shudder to think what a visit to one of these sites would be like without Friends, whom the Service has always referred to as "the face of the refuge."

As community members, we are dedicated to these sites and are scrupulously devoted to ensuring our activities benefit the local site, the refuge and hatchery systems, and our communities. Our activities include recruiting volunteers, supporting operations and maintenance, promoting the site, educating the public, and contributing financial resources.

While we are gravely concerned with the report and the Service response, our primary desire has not changed, which is to work with the Service to improve the Friends program through better communication, sharing relevant data, and respecting each other's mission, roles, and authorities. We too believe that metrics need to be collected to show how valuable the Friends program is to Service and our fellow citizens. We believe that a first step to moving forward on improving the program is to better understand some of the findings in the OIG report.

We are convinced that the OIG incorrectly interpreted the governing laws and policy and that the Service's corrective actions will be excessive and unmanageable. We want to share with you how we have been operating under these laws and policy.

1. The OIG states that Friends groups have "a mission of supporting an affiliated FWS site or program". They suggest this is the *sole* purpose of Friends groups.
 - a) The law does not require that the mission of the Friends be exclusive to supporting the mission of the Service site. (Pub. L. No 105-242)

- b) There are Friends organizations that also need to have partnerships with state parks, cities, or other non-Service entities due to the unique natural resources of their national wildlife refuge and the surrounding lands.
2. The governing law and Part 633 FW 4 of the Friends Policy requires that the net revenues generated on a Service-managed site be used exclusively for the benefit of the refuge.
- a) Historically, benefit has been defined as using net revenues for expenditures for projects, programs, or resources to support the site. Examples include requests from refuge staff for food and beverages for volunteers and visitors, landowner outreach, or specific refuge projects and activities. Additionally these revenues are used for salaries for Friends staff, insurance, trophies for a photo contest, and a variety of other expenditures in keeping with our mission and the laws of the state under which we are registered.
 - b) The term “Exclusively for the benefit of the refuge or hatchery” has historically been interpreted as limiting the use of these net revenues to benefit that specific site on which they were raised. (Part 633 FW 4)
 - c) The OIG report implies that all net revenues must go to the Service site, and no funds can be used to operate the Friends group. Our boards have a fiduciary duty to ensure we have the financial resources to support our mission. Not being able to use revenues generated on a Service-site for our operational expenses would cause us to violate that fiduciary duty.
 - d) With regard to Friends operated nature stores on refuges and hatcheries, the OIG’s interpretation of net revenue seems to conflict with the Friends Partnership Agreement that requires us to use Generally Accepted Accounting Principles. GAAP defines net revenue as gross revenue less the cost of goods sold where cost includes purchase price, salaries, insurance, or any other expense related to the operation of the store. The OIG report is unclear as to how they define “net revenue.”
 - e) Even though it is the mission of all Friends groups to support the refuge or hatchery with which they are associated, we can find nothing in the governing laws or policy that specifies that funds raised anywhere other than Service-managed sites must be used to benefit the site. Rather, donors expect all funds generated by Friends to support the mission of our organization and fulfill the terms of agreements.
3. The funds generated by Friends groups are not federally appropriated funds. We are not aware of any federal regulation that requires that funds generated and held by Friends are subject to federal regulations regarding spending.

We want to share with you our thoughts on the OIG recommendations and the Services corrective action.

#1. Develop and maintain an accurate and complete list of Friends organizations.

We concur with the OIG recommendations and the Service action to update their record of Friends groups and to confirm these groups have the necessary documents. There are groups that do not meet the requirements to become official Friends organizations. We encourage the Service to work with these supporters of Service sites to formalize their relationship, whether through a Friends Partnership Agreement or a Memorandum of Understanding.

#2. Review each Friends organization on a regular basis to assess compliance with Friends program policies and procedures, effectiveness of internal controls, and accountability for donations and expenditures.

Friends recognize that they and each refuge or hatchery have a mutual and collective responsibility to regularly assess the compliance with the policies and the Friends Partnership Agreement. This assessment should be part of the annual meeting that is specified in the Friends Partnership Agreement (V.A.(6)).

The Friends Partnership Agreement also states that the Friends will conduct their fiscal operations in accordance with the Generally Accepted Accounting Principles (V.C.(3)). Friends, like other philanthropic partners of federal land agencies, will permit the Service to verify and audit any financial audit or records from the books, correspondence, memorandum and other records of the Friends that are related to the Friends Partnership Agreement.

Further operating requirements such as the Service assessing the effectiveness of the Friends internal controls would violate the Friends Policy (Part 633 FW) and the Friends Partnership Agreement which requires the Service to avoid involvement in Friends organization's operations and administration. We therefore opposed the imposition of any further operating requirements that infringe on the independence of a Friends organization.

#3. Develop and implement policies to establish accountability of Friends organization donations, revenues, and expenditures to ensure they benefit the applicable refuge or hatchery (including requiring that friends provide an annual performance report containing donations, revenues, and expenditures).

The OIG report could not determine whether certain expenditures by Friend benefited the applicable refuge or hatchery. It appears the OIG incorrectly defined benefit. As a result, they inappropriately inferred that Friends are misusing funds. The OIG has created a problem and provided no solid evidence that it exists.

As we stated earlier, benefit has historically been defined as using net revenues for expenditures for projects, programs, or resources to support the site. Buying trophies for an event that raises significant funds for a refuge is a benefit. Buying food and beverages for volunteers is also a benefit.

The OIG report incorrectly states that donations and revenue received by Service Friends are “required” to be spent to benefit wildlife refuges and fish hatcheries. The report fails to recognize nuances:

- A. The governing laws and policy only address how funds raised on Service-managed sites must be used to benefit that site.
- B. Donors expect all funds generated by Friends on or off the Service-managed site to support the mission of the Friends organization and fulfill the terms of agreements that support that mission.
- C. The governing laws do not require that the mission of a Friends group be exclusive to a Service-site. There are Friends organizations established with the purpose of promoting and conserving the natural, historical, and cultural resources of a particular Service site. They may partner with other agencies and organizations to achieve their purpose. Revenue generated off the Service-managed site may be used to support the Friends work with these partners.
- D. Donors give to a nonprofit with the expectations that assets will be used prudently to support the mission of that organization. The Friends board has a legal responsibility to carefully manage its assets.

Friends manage their operations knowing they must be responsible to their donors and partners, comply with the laws of their State and federal government, and any agreements they have entered into. As a partner to the Service we acknowledge that they need to maintain the information necessary to manage an effective program. Our fellow citizens need to see how their investment in the Friends program benefits their community. We suggest working together to develop financial requirements that ensure:

- A. Friends and the Service will maintain proper financial management.
- B. Friends will permit the Service to verify and audit any financial audit or records from the books, correspondence, memorandum and other records of the Friends that are related to the Friends Partnership Agreement.
- C. At the site level, the Service will meet with their Friends group annually to review how they have expended funds donated to them by the Friends.
- D. The Friends will annually provide the Service with an annual report of aid, a short narrative, and a copy of its IRS Form 990.

- E. The development of other annual reporting requirements that are reasonable and tiered to reflect the amount of funds being raised by an individual organization.

#4. Develop a management plan, with the assistance of the Department of the Interior Ethics Office in the Office of the Solicitor (DOI SOL Ethics Office), to monitor the program and ensure that money collected in support of the U.S. Government is spent appropriately (including the use of funds to purchase meals, entertainment, or other potentially impermissible items).

Friends are concerned that this management plan will infringe on our legal responsibilities: duty of care, loyalty and obedience. We need to ensure that we prudently use all of our assets, obey applicable laws and regulations including our bylaws, adhere to our mission, and that our activities and transactions advance our mission.¹ We can not transfer any of these duties to any other entity.

The funds generated by Friends groups are not federally appropriated funds. We find no stipulation in the governing laws or policy that mandates Friends must apply DOI Ethics to the expenditure of the net revenue they generate on Service-managed sites.

If the OIG is implying that there is an issue with government employees violating DOI ethics laws, this needs to be addressed from the DOI side. The Service and their staff need to ensure they do not request or accept financial assistance from Friends that would violate DOI ethics. Resources need to be developed so Friends can assess whether or not a request for financial assistance from the Service violates these ethics. It is not the responsibility of Friends to monitor the Service.

#5. Ensure that required friends program documents, including Friends Partnership Agreements and evidence of nonprofit status, are in place for all Friends organizations.

Response is incorporated in item #1.

#6. Establish and implement a policy to periodically review required Friends program documents, including Friends Partnership Agreements and evidence of nonprofit status, to ensure they remain for force.

¹ <https://www.councilofnonprofits.org/tools-resources/board-roles-and-responsibilities>

The Friends Partnership Agreement already calls for the partners to meet annually to assess the effectiveness of the partnership (V.A.(6)). As stated in the response to item #2, this would be part of the annual meeting.

The Friends community sincerely want to work with the Service to enhance reporting. We want to make sure that all parties are fulfilling their roles properly and in ways that benefit the natural, cultural, and historical resources associated with these incredible sites managed by U.S. Fish and Wildlife Service. As partners of the Service we need to be a part of determining how to make any corrective actions work. To this end, we have the following requests and suggestions for the Service:

1. Provide National Wildlife Refuge Association and Coalition of Refuge Friends and Advocates a copy of the Service response to the OIG's draft report.
2. Ensure that Friends organizations have representation on or input into the work of the Oversight Team. Their input is essential to achieving an outcome that recognizes the needs and practicalities of both the Service and Friends groups.
3. Invite Friends, NWRA, CORFA, and other public lands advocates to meet with members of the Service management team to discuss our concerns and pathways forward.
4. Allow Friends the opportunity to provide comments on updates to policies and the Friends Partnership Agreement.
4. Ensure any changes to the Service's Friends program will not prevent us from being able to fulfill our legal responsibilities associated with governing our independent organization.
5. Clarify that Friends are authorized to raise funds on service-managed property for internal administrative needs (such as salaries for Friends employees, insurance, office supplies, and other reasonable expenses of operating the nonprofit organization) Messaging associated with such fundraising will not imply those funds directly support the Service.²
6. Work with Friends group representatives to revise the Friends Partnership Agreement so it better aligns with Part 633 FW and the needs of Friends organizations.
7. Recognize that Friends want to partner with the Service to improve this program. Friends are community members who care passionately about the local refuge or hatchery. Their commitment to these sites is an extension of their desire to ensure these lands are community assets. To this end we request the development of a training program to enhance the partnership between Friends and local refuge staff. The National Wildlife Refuge Association and Coalition of Refuge Friends and Advocates, as non-profit partners, are available to assist with such trainings.

² National Park Service, Philanthropic Partnership Agreement V 3

We appreciate your attention and efforts to improve the Friends program. We would welcome the opportunity to discuss the OIG report, our concerns, and recommendations at both the regional and national level. As always, we want to work with you to strengthen the Friends program so that Friends can continue to play their vital role in wildlife refuge and fish hatchery systems and in the Service's outreach and volunteer efforts.

Sincerely,

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