



The Honorable Kenneth Salazar  
Secretary, United States Department of the Interior  
1849 C Street, N.W.  
Washington DC 20240

November 7, 2009

Subject: Final Rule Eagle Protection Act (16 U.S.C. 668-668d) (“Eagle Act”)

Dear Secretary Salazar:

As president of the North American Falconers’ Association, the nation’s preeminent voice of the practitioners of the ancient and noble practice of hunting wild quarry with trained birds of prey, and the largest member falconry organization in the world, I write to urge you to direct the United States Fish and Wildlife Service (“Service”) to remedy problems with its new regulations governing the take of bald and golden eagles by amending or correcting them before they take effect.

Specifically, I hope you will direct the Service to amend its new regulations to guarantee an annual minimum of twenty golden eagles available for take by falconers.

On September 11, 2009, the Service published (Federal Register: Friday, September 11, 2009; Volume 74, Number 175; Rules and Regulations, Pages 46836 – 46879) a Final Rule (FR) establishing new regulations under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) (“Eagle Act”). The FR is set to take effect November 10, 2009; I strongly encourage you to act before then.

The FR poses a significant likelihood of completely preventing licensed individuals from acquiring golden eagles for falconry purposes, an activity specifically provided for by Congress when it amended the Eagle Act in 1972.

I strongly encourage you to find a way to guarantee continuation of use of golden eagles in falconry, preferably by adding language to the FR specifically allocating a minimum number of eagles for falconry purposes. Assurances for as few as twenty annual permits for the take of golden eagles would likely suffice to meet nationwide demand for falconry birds.

The problem stems from the Service’s intent to grant Native Americans overarching preferential consideration for religious and cultural purposes and guaranteeing they will receive depredating eagles

North American Falconers’ Association  
60965 Ward Rd. – Bend – Oregon – 97702

instead of falconers. I recognize and understand the legal and moral mandates leading the Service to this course of action. It is entirely appropriate for the Service to take Native American religious and cultural practices seriously; I am pleased to see high-level official recognition of the legitimacy of those practices. However, we should be able to find a way to accommodate those uses without significantly reducing or eliminating other legitimate uses in the process.

Under the Eagle Act, falconers are restricted to taking depredating immature golden eagles from areas designated by the Service, a state, or the US Department of Agriculture. One such area is presently so designated, in the Service's Region Six. Should the number of Native American requests for eagles from that region exceed the annual take threshold established by the Service, all U.S. falconers would lose their sole and entire means of legal access to wild eagles.

The FR says the Service may require tribes to take eagles in other regions if demand in a particular region exceeds take thresholds. The Service notes there are several sources of eagles and eagle parts in addition to removing birds from the wild. If the Service is willing to work with Native American interests to reshape take in a particular region, I believe it is reasonable to do the same with falconers, granting them a seat at the table and guaranteeing them a minimum take in the only region presently open to falconry take. The FR should state clearly falconers "shall" have access to wild eagles, not "may."

As written, the FR unnecessarily pits two legitimate user groups against one another. No one disputes Native American cultural or religious use of eagles. Falconers have no quarrel with Native Americans. Yet, the Service has backed falconers into direct competition for access to eagles with the Native American community. Given the power of religious and cultural practices and their protection in law, falconers cannot possibly hope to prevail if and when competition arises. Surely, there are ways to avoid this.

Religious and cultural demand for eagle parts may represent an opportunity for new cooperation between falconers, wildlife rehabilitators, and Native Americans, if only the Service would explore the possibilities. Falconry eagles constitute an important and perpetual source of molted feathers for Native American use, and using harmlessly molted feathers from captive birds could reduce the demand for lethal take. It seems counterproductive for the Service to risk shutting off an impact-free source of feathers in favor of increased lethal collection.

Beyond the issue of disenfranchising a group of legitimate users, I am puzzled by the Service's failure to identify numerical goals for eagle populations. Yet, at the same time, it proposes precisely enumerated actions, i.e., limiting take to a specific number. By its nature, wildlife management is notoriously imprecise and subject to changing conditions, assumptions, and priorities. But, as Yogi Berra famously observed, "If you don't know where you're going, you might end up somewhere else." If the Service can't say how many eagles it thinks there should be, how can it draw up proposed actions to restrict or eliminate an already extremely limited take in order to achieve those undefined targets?

Typically, falconers take fewer than ten eagles annually. With a North American population of tens of thousands of golden eagles, falconry take poses no measurable loss to the breeding population. Even if the Service knew precisely where it was going regarding golden eagle numbers, eliminating take by falconers would be inconsequential.

Falconry take of golden eagles is far surpassed by the numbers of birds electrocuted on power poles, killed in collisions with vehicles, wind turbines, windows, fences, and wires, shot illegally, caught inadvertently by trappers, or lost to any of a hundred other causes every year. Oddly, the Service offers no indication of steps to reduce or minimize these sources of human-induced mortality, yet it is willing to consider eliminating legitimate, Congressionally designated use by falconers. If one may safely assume more golden eagles are killed on the highways in any single state in the Rocky Mountain West than are taken by all falconers in the Nation in any given year, why must falconers be the first to give up their activities?

Of particular concern is wording in the FR stipulating that once set, take thresholds may not change unless and until sufficient data exist to demonstrate increased take will be compatible with the preservation of the bald eagle or the golden eagle. In the context of imprecisely or entirely undefined population goals, consistently imperfect or incomplete field studies, and a lack of solid schedules for and budgets to support future studies, it is hard to imagine sufficient data will ever exist. In practical terms, this accomplishes a total and enduring ban on falconry take of golden eagles. That is not what Congress intended when it specified falconry as a legitimate, non-lethal use of depredating golden eagles. I encourage you in the strongest possible terms to remedy this provision before the FR is allowed to take effect.

Finally, the Service could have done more to solicit public comment on the draft environmental assessment (“DEA”) which led to the FR. Appropriately, the Service sent letters to individual tribal entities and invited their comments. Unfortunately, they did not grant the same consideration to falconers – the people most likely disenfranchised by the new regulations. The Service should have suspected something was amiss in the public comment process when the draft regulations inspired a flood of approximately 21,500 comments, yet the DEA attracted just 58. Surely, it is unrealistic enough to expect the public to digest and comment on a 210-page document in just 30 days. Difficult quickly decays to the impossible, though, when the affected public is not even made aware of the impending changes. At minimum, the comment period should be reopened, and the Service should contact all potentially affected parties to offer them the same opportunity to comment as was given tribal entities.

On behalf of U.S. falconers, I urge you to correct the FR to guarantee them continued access to golden eagles. Thank you for your consideration of this request.

Respectfully submitted,



Daniel N. Cecchini, Jr., President  
North American Falconers’ Association

Cc: Sam Hamilton, Director, US Fish and Wildlife Service