

CACFA - List of Agency Encroachments (taken from CACFA Correspondence)

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BUREAU OF LAND MANAGEMENT

I. NPR-A IAP/EIS (SL letter 6/15/12)

- A. Alternately followed and ignored key provisions in their extensive list of statutes, regs, policies & manuals;
- B. Eligibility & suitability determinations for wild & scenic rivers continue;
 - 1. Inconsistent with ANILCA 1326(b);
 - 2. Only authorized by further act of Congress;
 - 3. "No more" clause;
- C. Failure to recognize temporary access to private landowners under ANILCA 1111, regulated under 43 FR 36.12;
- D. Prepared inventory of wilderness characteristics;
- E. Ignored the State's repeated attempts to get them to comply with state law;
- F. Ignored the newest data available;

II. Delta River Special Recreation Management Area

State of Alaska Appeal, Gov. Parnell 4/27/12

- A. Misinterpretation of ANILCA;
- B. Lack of understanding of how ANILCA provisions have been implemented by other DOI agencies in AK;
- C. Subsistence & general access to BLM lands across AK is casually being incrementally eliminated;
- D. Unenforceable, legally questionable recommendation that public not partake in legal activities, causes stress & conflict in the field;
- E. Recommended refraining from use of motorboats, airplanes, etc. in some areas to prevent resource degradation;
 - 1. Access is permitted unless resource values are threatened;
- F. Lack of use of proper closure procedures;
 - 1. Inadequate documentation of need;
- G. Group size limitations - should only be implemented by regulation;
- H. Using ANILCA 810 process to implement section 811 access restrictions, inconsistent with law;
 - 1. Stark contrast to other DOI agency processes established by regulation;
- I. Ignored process for wild & scenic river designation;
- J. Defining ORVs post-designation;
- K. 17(b) easements, denied permission to maintain trails;

CACFA Letter, written by SL 6/2/10

- L. Policy changes not based upon use
- M. Very short comment period
- N. No public meetings or participation
- O. Loophole in no more clause - can be done as a part of another study

CACFA Letter, written by SL 5/6/10

- P. No public meetings, open houses or workshops during 60 day scoping period in 2008;

Q. Restrictions to snowmachine, motorboat, aircraft, non-motorized surface transportation must follow ANILCA closure procedures;

1. Cannot be enacted through a plan;
2. Need notice & hearings, comment opportunities;

R. "Traditional activity" standard does not apply to access by boat or plane;

1. Their use is not restricted to traditional activities or for access to villages or home sites;

S. ANILCA 1110(a) standard of "detrimental to the resource values of the area" has not been met to restrict such use in any management zones;

III. Eastern Interior Management Plan (from meeting 11/29/12)

- A. Includes snowmachines as ORVs despite ANILCA law;
- B. Studies being done for wild and scenic river determinations;
- C. restrictions on personal watercraft and hovercraft;
- D. Allocation of big game counts, should be left to the State;
- E. Breach of process, new alternative

IV. Bristol Bay RMP (FW comments)

NEPA Violations

- A. Inadequate public process, meetings during work time or holidays;
- B. Inadequate range of alternatives;
- C. A Pro Forma range of alternatives;
- D. Inadequate mitigation of impacts to subsistence;
- E. Inadequate suitability finding & analysis for wild & scenic rivers;
- F. Inadequate analysis led to incorrect finding that Bristol Bay lands are undeserving of protection;
- G. Improper interpretation of "Review Mandate" under ANSCA;
- H. Flawed analysis for retention/revocation of mineral withdrawals;
- I. Removal of 30-day public review without input from PRMP/FEIS to ROD;

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NATIONAL PARK SERVICE

I. Denali Park Vehicle Management Plan

CACFA Letter 7/30/12, SL

A. Breach of process - development of new alternative & its selection as preferred alternative;

B. Includes 2 significant components not included in either previous alternative & not evaluated in draft EIS;

1. Limit of 160 vehicles/ day, not "adaptive" management strategy;
 2. Requirement of concession contracts for Kantishna businesses conducting day trips, departure from draft not analyzed or discussed;
- C. No inholder access provisions for future increases, adverse impact on economic growth of Kantishna;

CACFA Letter 10/31/11 by SL

- D. Data on vehicle use levels is skewed;
- E. Oppose phase out plan to eliminate vehicles from Teklanika campground;

F. Inholder access - new commercial authorizations required, previously conducted under ANILKCA 1110(b);

1. NPS should recognize "for economic & other purposes";
2. Kantishna inholder access may be re-allocated to benefit the bus system;
3. Possible increases should be addressed;

II. Nabesna ORV Management Plan & FEIS

CACFA Letter 2012 written by SL

- A. Closure of Entire Park within Nabesna district to non-subsistence off-road vehicle use;
 - 1. Requires procedures under 36 CFR 13.460;
 - 2. Loss of 60% of available trails, significantly restricts hunting & fishing activities;
 - 3. Motorized ground access for sport hunting in wilderness preserve eliminated;
- B. Closure represents substantial change, significant restriction of existing uses;
 - 1. Should be subject to additional review and comment;
- C. Restriction of subsistence ORV use to trails within designated wilderness (& game retrieval within 1/2 mile);
 - 1. Constitutes closure, requires compliance with 36 CFR 13.460, with prior notice & hearings in affected area;
- D. No mention of adequate & feasible access for inholders if trail closure. (4 of 9 trails have inholdings);

ROD Comments, Dec, 2011 by SL

- E. Selection of new alternative with substantial new restrictions and no opportunity to comment;
- F. Closure of trails beyond reroutes because of no customary & traditional use;
- G. Closures on wilderness lands outside of trail corridors require procedures under 36 CFR 13.460;
- H. Motorized ground access for sport hunting in wilderness preserve virtually eliminated;

(SL letter Nov,2011 mtg packet)

- I. Eliminates access which predates the establishment of WRST
- J. Excludes many Alaskans from traditional hunting areas
- K. Possible restrictions to inholder access & subsistence uses within designated wilderness

(SL letter 11/10/10)

- L. ORV use protected by ANILCA 811 "If ORVs were traditionally used in a park area for subsistence purposes, such use may continue, even in wilderness," may be restricted only if adverse impacts
- M. No mention of interim measures used on existing trails before funds are received for trail improvements
 - 1. Recreational use only on trails in fair or better condition

Additional Comments by Commission Member Smith

- O. No mechanism to object to ROD
- P. Breach of process, new alternative, no public comment
- Q. Increase in wilderness designation
- R. Subsistence not a part of original lawsuit, brought in by NPS
- S. Vehicle weight & size restrictions

III. Lake Clark National Park & Preserve

CACFA Letter 5/8/12 by SL

- A. Reassessment of eligibility for wilderness designation is clear violation of ANILCA 101(d), 1326(a) & 1326(b);
- B. ANILCA law supersedes any NPS policies;
- C. Wild zone - increases potential for visitor restrictions, unnecessary to protect purposes for which park established;

IV. Compendiums Sue Masica

(SL letters 2/16/10, 2/15/11)

- A. Retention of permanent seasonal closures and other temporary restrictions in a park compendium for several years without complying with 36 CFR 13.50
- B. Lake Clark closures due to bear conflicts introduced through compendium, not rulemaking
- C. WRST Donoho Basin restrictions through compendium, not rulemaking
- D. ANILCA Sec 13 places additional requirements & limits on agencies before they can implement these restrictions on public use in Alaska park units

(St of AK letter 2/16/10)

- A. Confusion over temporary vs permanent closures
- B. Discretionary closures & restrictions to taking of fish & wildlife should be left up to Board of Game
- C. Amendment of the regulatory definition of a "vessel" is not appropriate in compendium

V. Sturgeon case (SL letter 11-17-11)

- A. NPS only authorized to supplement US Coast Guard actions
- B. No authority to broadly regulate watercraft on navigable rivers in AK that happen to fall inside NPS boundaries
- C. No authority to restrain the lawful launching of watercraft into navigable waters
- D. After 1996, actions irreconcilable with ANILCA

(SS additional comments) Other NPS issues

- A. Failure to recognize RS2477s
- B. Breach of process, new alternative, no public comment
- C. Flood of management plans
- D. Attempt to eliminate ANILCA 1308 local hire
- E. Attempt to require permits for WRST subsistence firewood
 - 1. Regulation change for dead standing wood over 3 inches in diameter
 - 2. "Cutting" vs "gathering"
- F. Attempts to manage, regulate, limit and control activities on state navigable waters
- G. DOI attempt to establish "wild lands" policy
- H. ORV use, weight & size restrictions
- I. No mechanism to object to ROD
- J. Increase in wilderness designation
- K. Subsistence not a part of original lawsuit, brought in by NPS

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NATIONAL FOREST SERVICE

I. Tongass National Forest Scoping Plan to close & convert public use cabins (SL letter 8/15/12)

- A. Failure to allow an opportunity to submit further comments, need to comment on detail in final EIS
- B. No decision until after final report on Tongass cabin program is completed and made public
 - 1. Changing fees, eliminating cabins with little or no use, changing operation & maintenance strategies
- C. Denied CACFA's FOIA request
- D. Deficiencies in the public process
- E. Lack of detailed information about current program
- F. Lack of clarification of proposed action
- G. Lack of proper procedure in wilderness ANILCA 1315 (18 mo advance notice, health report)
- H. Stringent restrictions on traditional use of motorized equipment for cabin maintenance
- I. Cabin closures
- J. Removal of woodstoves from cabins, installation of oil stoves
- K. Significant closures, now "closed until opened" rather than "open until closed"

II. National Forest Service Land Management Plan FEIS (SL letter 3/5/12)

- A. Final regs fail to reference ANILCA
 - 1. NFS shows increasing reluctance to recognize ANILCA provisions, particularly if unique to AK
 - 2. Regs violate key provisions of ANILCA
- B. Section 219.7 (c)(v) requires identification & evaluation of lands suitable for wilderness designation
 - 1. ANILCA prohibits such evaluation unless authorized by Congress
- C. Section 219.7(c)(vi) requires wild & scenic river study
 - 1. ANILCA 1326(b) prohibits such reviews
- D. ANILCA 708(4)(b) restricts further wilderness review in AK by the Forest Service
- E. No reference in planning process to provide for:
 - 1. Land exchanges ANILCA 1302
 - 2. Conveyances Title IX
 - 3. Boundary adjustments Sec 103
 - 4. Transportation & utility corridors Title XI
 - 5. Access to inholdings Sec 1110(b)
 - 6. Access for subsistence Sec 811
 - 7. Special access Sec 1110(a)

III. White Sulphur Springs Bathhouse (SL letter 4/6/12)

- A. ANILCA 1315 Congress did not consider the retention of existing cabins & shelters, or construction of new ones, to be inherently inconsistent with wilderness purposes and values
- B. Congress didn't view rustic cabins to be an alternation or disruption of the wilderness character
- C. No motorized equipment, use of primitive tools where traditionally motorized equipment was used

IV. Forest Planning National Forest System DEIS (SL letter 5/16/11)

- A. Labyrinth of planning language & procedural requirements
 - 1. Difficult to understand
 - 2. Does little to encourage general public to participate
- B. Release of summary report of Science Review of DEIs
 - 1. Timing is questionable, may prejudice the public review process
- C. Lack of public outreach in AK, further meetings denied
- D. No oral comments allowed at meetings
- E. References to ANILCA omitted
 - 1. Significant % of Tongass National Forest is designated wilderness, subject to mgmt provisions of ANILCA
- F. ANILCA prohibits wild & scenic river reviews or further wilderness studies
- G. Opportunity to comment limited to those who previously submitted substantive formal comments
- H. Comment period too short

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US FISH & WILDLIFE SERVICE

I. Izembeck National Wildlife Refuge Land Exchange & Road Corridor Project DEIS (SL letter 5/18/12)

- A. No balanced & objective discussion & analysis of impacts of various alternatives
- B. Focused almost exclusively on potential negative impacts
- C. Positive impacts from addition of 44K acres to refuge downplayed or ignored
- D. Not a full & fair review of impacts of proposed action
- E. Lack of data

II. National Marine Fisheries Service (SL letter 2/25/12) Definition

- A. Definition of "significant portion of its range", loss of historical range could affect determination
- B. Could result in listing where thriving, unnecessary & costly overregulation in some areas

(SL letter 2010) Beluga whale designation of critical habitat

- A. Insufficient information & data available
- B. Current environmental safeguards are adequate
- C. Annual aerial count bogus
- D. Failed to consider affect of killer whales upon numbers

III. Arctic National Wildlife Refuge DCCP & DEIS (SL letter 11/15/11)

- A. Failure to comply with ANILCA 304(g) to prepare CCP
 - 1. Reviews for additional wilderness designation violate ANILCA, deadlines of 7 years long past
 - 2. Additional wild & scenic river designations also a violation
- B. Hamilton memorandum - has no authority to supersede ANILCA
- C. Violation of ANILCA 1326, 101(d) no more clause
- D. Cannot utilize a wilderness review as tool to evaluate management of a refuge
- E. Management prescriptions implemented under the "No Action" alternative

- F. Premature determinations under some alternatives
- G. Mechanisms used to place limits on public use or restrict access within those river areas
- H. Plan states public use cabins not allowed within river corridors in designated wilderness or minimal mgmt areas/false
- I. Plan ignores use of cabins in Arctic refuge
- J. Regional policy revised 2010, no public notice or review
- K. No mention of oil & gas development in DEIS, should be considered for complete picture, doesn't meet NEPA requirements
- L. Oppose federal management of fish & game
 - 1. Potential for overly restrictive mgmt guidelines
 - 2. Negatively impacts State's ability to manage

(SL letter 2/1/12) Special-use permit application for commercial guided activities in ANWR

- A. Replaced OMB approved instructions with refuge-generated instructions
 - 1. Collection of personal & unnecessary info violates paperwork reduction act & privacy act
- B. Asked to provide names for all volunteers, assistants, & subs who OMB says needn't be identified
 - 1. OMB requires names of overnight personnel, refuge asks for all
- C. Refuge issues permit on separate, unapproved form

IV. Selawik National Wildlife Refuge Draft CCP (SL letter 3/15/11)

- A. Closure of refuge lands is not supported by any evidence of resource inequity or lack of opportunities for local hunters
- B. Restricting hunters' access via commercial air taxi or transporter sets a dangerous precedent

V. National Wildlife Refuge System Draft Friends Policy (SL letter 12/2/10)

- A. Need clearly defined boundaries
- B. Use of federally appropriated funds for groups involved in the advocacy of issues
- C. Question the objectivity of an EIS written by NPS? friend employees

VI. Tetlin National Wildlife Refuge Exxon Mobil right of way / land exchange (public testimony 11/29/12 Bob Greene)

- A. Circumventing ANILCA Title XI by implementing land exchange under Title XIII
 - B. Permanent easement becomes asset of Exxon Mobil
 - C. No Title XI assurances, no checks & balances
 - D. Federal agency working with 'for profit' corp to circumvent ANILCA
 - E. Eastern mgmt plan does not mention utility corridors
 - F. Flawed appraisal, no comps investigated in area
 - G. Abbreviated NEPA review
 - H. Inconsistent with the purposes of a unit of the National Wildlife Refuge System
- ANILCA 304(d)

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ALASKA FEDERAL LANDS LONG RANGE TRANSPORTATION PLAN (SL letter 4/11/12)

1. Applies to 60% of lands in AK
2. Focuses primarily on tourism, recreation, and subsistence
3. Does not address future transportation needs for resource development or community growth & development
4. Inconsistencies between agency individual plans
 1. Different goals for each agency
- 5 NEPA and ANILCA references are largely excluded from individual and umbrella plans
6. No reference to ANILCA 304 (g)(2)(D), each CCP should identify & describe present & potential requirements for access in Title XI
7. No reference to ANILCA 1301 (b)(4), requiring each GMP for AK parks to include access plan for transportation routes & facilities
 - a. Describe application process for transportation & utility corridors across CSUs
8. No reference to ANILCA 1110 (a) special access by snowmachine, motorboat, airplane & non-motorized surface transportation for traditional activities, and for travel to and from villages & homesites
9. Winter trails used regularly for village to village travel should be listed as assets, and mapped
10. Inland barge traffic ignored in CRTP
11. Only NPS LRTP even mentions RS2477s
12. State not included, only federal agencies

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SEALASKA BILL

(CACFA to Sen Murk/11-4-11)

1. Lack of data available to objectively & thoroughly assess benefits & impacts of selections outside of existing ANSCA withdrawal areas
 - a. Timber appraisals unavailable
 - b. No comparative economic data
2. Should have revisions to Tongass National Forest Land & Resource Mgmt Plan
3. Oppose proposed permanent legislatively designated conservation area classification
 - a. No timber harvest or road construction
4. Eventual displacement of commercial operators after 10 years.
5. Dangerous precedent for other native corps to revisit their ANSCA land selection

(SL letter 2/28/11) NPS Environmental Quality Division, revisions 36 CFR Part 9 subpart B

1. NPS has no right to control anything on private lands within parks' external boundaries

(SL letter 6/15/10)

1. ANSCA selections already legislatively revised once
2. Native future sites putting public lands into private ownership
3. No survey data, legal descriptions of properties
4. Concern over access & 17(b) easements
5. Questionable long term renewal of concession contracts

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JPARC (SL letter 3/4/11)

A. Need ANILCA 810 determination, evaluating potential impacts to subsistence use of federal lands

1. With hearings in affected areas
2. With consultation with local fish & game advisory committees & regional councils

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"ANILCA 802 sets forth a policy of Congress that uses on the public lands in Alaska are to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands."