STATE OF ALASKA

SEAN PARNELL,
Governor

CITIZENS' ADVISORY COMMISSION
ON FEDERAL AREAS

3700 AIRPORT WAY
FAIRBANKS, ALASKA
99709

PHONE: (907) 374-3737
FAX: (907) 451-2751

November 15, 2011

Richard Voss
Refuge Manager
Arctic National Wildlife Refuge
101 12th Avenue, Room 236
Fairbanks, Alaska 99701-6237

Dear Mr. Voss:

The Citizens' Advisory Commission on Federal Areas has reviewed the Draft Revised Comprehensive Conservation Plan (DCCP) and Draft Environmental Impact Statement (DEIS) for the Arctic National Wildlife Refuge. Based upon that review and significant concerns about the 2010 policy decision by the U.S. Fish and Wildlife Service to ignore key provisions of the Alaska National Interest Lands Conservation Act (ANILCA), we have determined that the only legitimate and, therefore, the only acceptable management alternative found in the DCCP is Alternative A – the No Action or Current Management alternative.

The Commission questions whether the DCCP and DEIS fully comply with the basic planning requirements of ANILCA 304(g) which direct the Service to prepare a comprehensive conservation plan that examines a wide range of issues. In actuality, the DCCP and DEIS address only two questions. The first is whether additional lands within the refuge should be recommended for designation as wilderness. The second is whether additional rivers should be recommended for designation as wild and scenic rivers. The discussion and analysis in the DCCP and DEIS, as well as any proposals for future management actions, focus almost solely on these two points. The development of strategies to address other issues are left for future "step-down" plans. Considering their narrow and limited scope, we do not find that the DCCP and DEIS represent a comprehensive plan, as required by ANILCA.

The Commission supports retention of the current management strategy in the revised CCP, primarily because the 8.0 million acres of designated wilderness within the Arctic

Refuge represents a reasonable balance for managing and protecting the lands and resources within the refuge.

Maintaining the remainder of the refuge in a non-wilderness status has allowed the Service the flexibility to respond to changing circumstances or management needs and has worked well over the last 23 years. We find no reason, nor does the DCCP offer a satisfactory justification, to change current management direction. Existing statutory and regulatory authorities, including ANILCA specific regulations related to access, subsistence, public use, recreational activities, taking of fish and wildlife, use and construction of cabins, and commercial visitor services, provide sufficient protections for refuge values and purposes without reducing management options by imposing an additional layer of restrictions on the Service, cooperating agencies such as the Alaska Department of Fish and Game or the public

**Wilderness Reviews Violate ANILCA**

The Commission's scoping comments submitted in June 2010 strongly objected to the decision to conduct suitability and eligibility reviews for the purpose of developing recommendations for additional wilderness within the Arctic Refuge. The question of additional wilderness designations for all national wildlife refuge units in Alaska was previously addressed in reviews authorized by ANILCA Section 1317. This section is the only authority for conducting wilderness reviews within National Wildlife Refuges in Alaska and has long been recognized in both policy and practice.

The original reviews were required to be completed within five years from the date of enactment of ANILCA, with any recommendations for additional wilderness to be submitted to Congress within seven years of the date of enactment. Both of those deadlines are long past and there is no authority to conduct further reviews.

The wilderness review for the Arctic Refuge, excluding the 1002 area, was conducted in conjunction with the development of the original CCP. The November 1988 Record of Decision for the CCP and Final EIS selected an alternative that represented the management situation existing at that time. It contained no proposal or recommendation for additional wilderness.

The Commission also wishes to remind the Service that its Wilderness Stewardship Policy, which was newly revised in November 2008, confirmed that wilderness reviews for the Alaskan refuges were completed and no further reviews were required:

> ***"5.17 Does the Service conduct wilderness reviews of refuge lands in Alaska?*** *We have completed wilderness reviews for refuges in Alaska in accordance with section 1317 of ANILCA. Additional wilderness reviews as described in the refuge planning policy (602 FW 1 and 3) are not required for refuges in Alaska. During preparation of CCPs for refuges in Alaska, we follow the provisions of section 304(g) of ANILCA, which requires us to identify and describe the special values of the refuge, including wilderness values. Subsequently, the CCP must designate*

> *areas within the refuge according to their respective resources and values and specify the programs for maintaining those values. However, ANILCA does not require that we incorporate formal recommendations for wilderness designation in CCPs and CCP revisions.*"

This Stewardship policy was developed and revised over an 8 year period beginning in early 2001. According to the Notice of Availability (73 FR 67876, 11/17/2008) for the new policy, the revision process involved a lengthy public review period, revisions based on public comments, internal review and discussion with Service managers and staff. In addition the Service developed Intergovernmental Personnel Agreements with representatives from five states, including the State of Alaska, to facilitate an effective means of involving state fish and wildlife agencies in the development of Service policies and guidance. The 2008 policy included a chapter specific to wilderness in Alaska, including the above referenced section 5.17.

This important section of the policy, developed with extensive input and the open public process outlined in the Notice of Availability, was abruptly dismissed without notice by the January 2010 Hamilton memorandum. Not only was there no consultation with the State of Alaska before this memorandum was signed, it was not even provided to the Governor's Office, the State's ANILCA Coordinator or this Commission for several months afterwards.

The Hamilton memo directs the Alaska Regional Director when revising the CCPs for Alaskan refuges to "conduct a complete wilderness review of refuge lands and waters that includes the inventory, sturdy and recommendation phases, in accordance with 610 FW 4 (Wilderness Review and Evaluation)." The Hamilton memorandum lacks any authority to supersede ANILCA nor should it override the properly and publicly developed Service Stewardship Policy. The Hamilton memorandum should have been ignored.

Perhaps the best argument against any further wilderness reviews in the Arctic Refuge is found in Appendix H *Wilderness Review* of the DCCP. There is probably no area in Alaska that has been more thoroughly studied or reviewed for possible wilderness designation. Considering this, along with the negative controversy and divisiveness of debating additional wilderness designation in Alaska, it is unfortunate that so much time, energy, and space in the DCCP were devoted to this illegal review. The time and effort in conducting these reviews could have been better spent addressing other important management issues.

***Wild and Scenic River Reviews Violate ANILCA***

In the June 2010 scoping comments and again in our November 2010 comments on the *Draft Wild and Scenic River Eligibility Report* the Commission also objected to the decision to conduct wild and scenic river reviews. In addition to pointing out that these reviews ran contrary to ANILCA Section 1326(b), we also reminded the Service that one

of the primary purposes for establishing the Arctic Refuge was to ensure "water quality and necessary water quantity within the refuge." (ANILCA Section 303(2)(B)(iv)).

After reviewing the Wild and Scenic River Review in Appendix I of the DCCP, the Commission renews its objection and requests that the Service discontinue any further efforts to complete the review process or to make any recommendation for designation of any additional wild and scenic rivers within the Arctic Refuge.

**ANILCA "No-More Clause"**

The Commission is not persuaded by the flawed explanation in Appendix D of the DCCP (*Alaska National Interest Lands Conservation Act "No More" Clauses, pg. D-3*) given in an attempt to support the claim that the wilderness and wild and scenic river reviews in this planning effort do not violate the provisions in sections 101(d), 1326(a) and 1326(b) of ANILCA. The Commission does not accept the claim that these reviews do not violate the "no more" clauses in ANILCA simply because they are bundled into a bigger planning package and are required by questionable Service policy with no statutory foundation.

We are also seriously offended by the careless dismissal of one of the fundamental compromises found in ANILCA. The "no more clause" was a key piece in the final substitute bill and critical to its passage. Had this and other compromise provisions not been included, it is quite possible passage of an Alaska lands bill would have been delayed well into the next Congress and new administration.

ANILCA Section 101(d) provides the general statement that Congress believed no further legislation designating new conservation system units, national recreation areas or conservation areas was necessary because ANILCA struck a proper balance between protection of the national interest in the public lands in Alaska and the future economic and social needs of the State of Alaska and its citizens.

Congress provides confirmation of this by taking additional steps in Section 1326 to limit the power of the Executive Branch to use its authority to upset that balance. Section 1326 provides clear and unambiguous restrictions on federal land management agencies with respect to future withdrawals and further studies or reviews. We quote this section here in its entirety:

> *Sec. 1326 (a) No further executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after notice of such withdrawal has been submitted to Congress.*

*(b) No further studies of the Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or* ***for related or similar purposes*** *shall be conducted unless authorized by this Act or further Act of Congress*" (emphasis added)

Inclusion of this section was not unintentional, nor was it done without considerable effort. At least one early versions of the "D-2" legislation contained language curbing the authority of the executive branch. However, most of the bills introduced during the time of the "D-2" deliberations did not address this issue. Following the December 1978 Presidential Proclamations designating 17 national monuments under the Antiquities Act of 1906, the Alaska delegation and other members of Congress noted this deficiency and moved to correct it. At the invitation of Senator Jackson, chairman of the Senate Committee on Energy and Natural Resources, Senator Gravel submitted a letter to the committee expressing his views on H.R. 39, the bill which is the foundation for the final ANILCA. One section of Senator Gravel's letter addressed the "no more" issue directly:

*Title XII – Administrative Provisions*

*"No More"*

*The Committee bill contains two provisions which I think are absolutely necessary to reassert Congress' authorities in the matter of land designations: (1) the revocation of the monuments and the other FLPMA withdrawals which were made last year by the Administration to put pressure on the legislative process, and (2) the exemption of Alaska from the wilderness study provisions of FLPLMA in the just belief that with passage of this bill "enough is enough".*

*However, one further critical provision is lacking. With the designation of over 100 million acres by this bill, coupled with the 50 million acres of units already existing in Alaska, nearly 40 percent of the land mass of the State would be within conservation systems. Surely that sufficiently meets even the most generous allocation of land for this specific purpose to the exclusion of most other land uses. Should this bill become law, we in Alaska must have some assurance that this represents a final settlement of the nation's conservation interests. We cannot continue to be exposed to the threats and intimidation of a zealous Executive which may feel in the future that the Congress did not meet the Administrations desires for land designations in Alaska.*

*Thus, absent from this bill is a provision barring further conservation system designations through administration action such as the Antiquities Act. Obviously, the Congress could act again in the future if it were so inclined, but the arbitrary permanent removal of federal lands from the public domain can no longer be left to the Executive in Alaska. Deletion of*

> *such a provision in this bill is a serious deficiency which must be corrected prior to any final action."* (Senate Report No. 96-413, pg. 446)[1]

A later version of the Alaska lands legislation, the so-called Tsongas Substitute for H.R. 39, was amended to include the language now found in ANILCA Section 1326. During the August 18, 1980 Senate floor debate on the Tsongas Substitute, Senator Stevens explained that the Alaska State Legislature had asked the Alaska delegation to address seven consensus points that were not originally contained in the bill:

> *"I have uniformly responded to questions in those areas [Alaska communities] concerning the revised Tsongas substitute. This substitute now is a version of the Senate Energy Committee bill, but it does not satisfy the seven points that our State legislature asked us to address in connections with this legislation.*
>
> *I have told Alaskans that while I cannot vote for the Tsongas substitute, I think it has to be judged as being a compromise that is better than the existing situation under the national monuments and certainly better than those the President has indicated he will impose if a bill does not pass.*
>
> *Our State legislature asked us to address seven points. We call them the consensus points.....*
>
> *The fifth injunction of the legislature was to be sure that there is what we call a no-more provision. This was a provision I insisted on in 1978. It was in the so-called Huckaby bill. It was in the bill that almost was approved in 1978. That clause is not in the committee bill. It is in the revised Tsongas substitute because the agreement we had in committee that when the bill had reached its final version on the floor of the Senate, the committee would agree to the no more clause. Realizing that the Tsongas revised substitute may be final version, the Senator from Massachusetts, at my request, has included that."* (Congressional Record – Senate August 18, 1980, pg. S11047)

Senator Stevens later in the floor debate formally introduced Amendment No. 1967 to H.R. 39 for the following purpose:

> *"To provide congressional oversight for major modifications of areas established or expanded by this Act and to require congressional approval for future major executive withdrawals of certain public lands in Alaska."*

The amendment containing the essential wording of Section 1326 was adopted and became part of the Tsongas substitute[2]. That bill was approved by the Senate on August 19, 1980 and by the House on November 12, 1980.

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[1] While the legislative history of ANILCA is extensive, given the number of bills introduced by both the House and Senate, *Senate Report 96-413* from the Senate Committee on Energy and Natural Resources is acknowledged as one of 2 committee reports that constitute the most relevant legislative history for the Act. It was cited at the end of the original slip law under *Legislative History.*

We provide this rather lengthy, and what may be seen by some as unnecessary, look at the legislative history of this section to emphasize its importance in securing the final passage of the legislation. We also provide it to show that Congress clearly retained for itself the sole authority for future studies or reviews for the purpose of creating additional conservation system units in Alaska. And, more importantly, we provide it to remind the Service of its responsibility to comply with the provisions of ANILCA and not attempt to find ways to circumvent them and thwart the clear intent of Congress.

**Purpose of a Wilderness Review**

The explanation in Appendix D also misrepresents the purpose of a wilderness review when it states:

> *"....a wilderness review is a tool we can use to evaluate whether we are effectively managing the Refuge according to the Refuge's purposes and other legal requirements."* (D-3)

In fact, the Service's own *Wilderness Stewardship Policy (Part 610)* rebuts this claim when it explains the purpose of a wilderness review:

> *"A wilderness review is the process we follow to identify and recommend for congressional designation Refuge System lands and waters that merit inclusion in the National Wilderness Preservation System (NWPS)."* (610 FW 4.4)

An examination of the remainder of *Chapter 4- Wilderness Review and Evaluation* – in the *Wilderness Stewardship Policy* finds no discussion of or guidance for utilizing a wilderness review as a tool to evaluate management of the Arctic Refuge as the explanation is Appendix D claims. The Service has numerous other tools to determine how effectively it is managing this or any other refuge. The sole purpose of a wilderness review is to determine if an area or areas of a refuge will be recommended for designation as wilderness. A wilderness area is statutorily defined as a conservation system unit. Therefore, any administrative review for the purpose of recommending or creating an additional wilderness in Alaska is a clear violation of ANILCA Section 1326(b). No amount of rationalization or semantical tap-dancing can explain that away.

Yet another misinterpretation of ANILCA that we find in Appendix D is the statement that ANILCA Section 1004 requires the Service to manage the wilderness character of the Coastal Plain (1002 Area) and its suitability for inclusion in the National Wilderness Preservation System. This is not accurate and should be corrected in the final CCP.

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[2] Subsection 1324(a) of Amendment 1967 is identical to the language found in Section 1326(a), however subsection (b) of the amendment was more inclusive than the final language of Section 1326(b): "No further studies of Federal lands for the single purpose of considering the establishment of a conservation system unit, special management area, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress."

Section 1004 does in fact require the Secretary of the Interior to review the suitability or non-suitability of the Federal lands described in ANILCA Section 1001 for preservation as wilderness. The lands described in Section 1001 include:

> *"...all Federal lands (other than the submerged lands on the Outer Continental Shelf) in Alaska north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve-Alaska, other than lands included in the National Petroleum-Alaska and in conservation system units established by this Act."*

The Arctic National Wildlife Refuge, Gates of the Arctic National Park and Preserve and the Noatak National Preserve were not included in the wilderness study area mandated by Sections 1001 and 1004 by virtue of their status as conservation system units. As such, wilderness reviews of any non-designated lands within those units were to be conducted only under the authority of ANILCA 1317.

There is an additional error in Appendix H *Previous Wilderness Reviews* (pg. H-32) that appears to be the basis for the misinterpretation of the applicability of ANILCA 1004 to the 1002 Area. The following statement is incorrect:

> *Consideration of the 1002 Area was deferred to a separate environmental study, as required by Section 1004 of ANILCA, resulting in a document known as the Coastal Plain Resource Assessment (Clough et.al. 1987)*

The *Coastal Plain Resource Assessment* was not conducted under the requirements of Section 1004. It was prepared under the requirements of Section 1002 (h) and provided *"the basis for the Secretary of the Interior's recommendations to the Congress concerning future management of the 1002 area."* (*Resource Assessment*, pg. 4).

The *Resource Assessment*, (pg 201) also contains the following statement in response to public comments received on the draft report:

> *"Section 1002(h) does not require a wilderness review pursuant to the Wilderness Act. The public land order that established the Arctic National Wildlife Range recognized the wilderness values of the range, including the 1002 area. The congress recognized this again in 1980 when it passed ANILCA, as well as recognizing the possibility that large quantities of oil and gas may exist on the 1002 area. It excluded the coastal plain from the area within the Arctic Refuge that it did designate as wilderness, pending consideration of the 1002 area study and further congressional action. Nonetheless, this report/LEIS evaluates a wilderness alternative to comply with NEPA."*

The statement on page D-3 that ANILCA Section 1004 requires the Service "..to maintain the wilderness character of the Coastal Plain and its suitability for inclusion in the National Wilderness Preservation System" is incorrect and should be changed. The

1002 Area and its resources are adequately protected under the minimal management category in the current CCP.

**Interim Management of "Suitable" Rivers**

The Commission has already commented that the Wild and Scenic River Review is a violation of ANILCA 1326(b) and therefore invalid. We are aware that federal agencies have avoided this prohibition on further studies by including them as part of various plan revisions such as the current effort for the ANWR CCP. Nevertheless, we again must point out that such actions violate both the letter and the intent of this section of ANILCA.

The plan cites Section 5(d)(1) of the Wild and Scenic Rivers Act (WSRA) as the authority for conducting the eligibility and suitability reviews of the 10 rivers in the Arctic Refuge. That section of the WSRA directs federal agencies to consider potential wild, scenic and recreational rivers during planning activities. In view of the language in Section 1326(b) the review requirements found in Section 5(a) of the WSRA do not apply in Alaska, despite agency claims to the contrary.

Congressionally authorized studies are found in Section 5(a) of the WSRA. In addition to designating 26 rivers or river segments as components of the wild and Scenic River System, ANILCA amended Sections 5(a) and (b) of the WSRA by designating 12 Alaskan rivers for study and establishing a timeline for completing those studies. Those studies have long been completed and the appropriate reports submitted to Congress. No further studies were authorized.

While we do not concede that the Service has the necessary legal authority to conduct the wild and scenic river reviews in view of the ANILCA restrictions, the draft plan under all alternatives would implement interim management prescriptions for any rivers found to be suitable for designation. However, the *Wild and Scenic River Suitability Report* (Appendix I) contains only preliminary determinations that the Atigun, Marsh Fork Canning, Hulahula and Kongakut are suitable for designation.

In spite of these "preliminary" determinations, the DCCP (pg. 5-14) clearly states that interim management prescriptions will be implemented under Alternative A, the "no action" alternative:

> *"The effects here are specific to a 'no recommendation' alternative, but even without a recommendation for designation, the ORVs for the four suitable rivers still need to be protected. Interim management prescriptions will be required for all four rives in Alternative A."*

According to the *Wild and Scenic River Study Process Technical Report* cited in the suitability report:

> *"Through land use plans, rivers and streams in the affected planning area are evaluated as to their eligibility and given a preliminary classification if found eligible. A determination is made as to their suitability in the agency's decision document for the plan."* (Technical Report, pg. 9)

Although the Suitability Review (SUIT-95) states that the suitability determinations will be finalized with the record of decision for the revised CCP, statements in the DCCP and EIS appear to indicate the Service has elected not to wait for the completion and release of the final Revised CCP and EIS or the record of decision before making a final decision on the suitability of the four rivers. Making this type of determination prior to the release of a record of decision is inconsistent with NEPA guidelines and the Department of the Interior NEPA regulations at 43 CFR Part 46.

In addition, we do not believe that these types of management prescriptions, outlined in Table D-1 in Appendix I, can be implemented under Alternative A, the so-called "no action" alternative. Similar premature determination problems exist for the other alternatives, each of which lists one or more of the four "suitable" rivers that would be subject to the interim management prescriptions, again clearly implying that final suitability determinations have been made for all alternatives.

The plan (Appendix I- SUIT-6) correctly points out that identifying a river as a candidate for study under Section 5(d)(1) of the WSRA does not trigger specific protection under the act, but is derived from an agency's existing authorities. However, the final CCP and EIS should clarify the following statement in the preliminary suitability determinations for the Atigun, Marsh Fork Canning, Hulahula and Kongakut:

> *"The Wild and Scenic Rivers Act provides useful tools for managing and protecting the values in this river corridor."*

Clarification in the final CCP should include specific examples of the types of management "tools" the WSRA provides that are not otherwise available and how they would "*provide a complimentary set of protections to other Refuge and Service policies and programs.*" (SUIT-23). It is obvious from the interim management prescriptions found in Table D-1 that these tools are simply another mechanism that the Service will use to place limits on public use or restrict access within these river areas.

Evidence of this is provided in the *Suitability Review* in the preliminary suitability determinations for the rivers found "not suitable." In discussing why each river was found not suitable, the plan lists various statutes, such as ANILCA and the Endangered Species Act, along with an array of plans, such as the Revised CCP and the various proposed step down plans, that will ensure adequate protection for the outstanding values of each river. It is essential that the main body of the Revised CCP provide the public with an explanation on how these WSRA tools would be integrated into the various standards and procedures required to be followed by ANILCA and the Alaska specific regulations found in 50 CFR Part 36 before the Service can restrict or limit public uses of

refuges. No interim management guideline can supersede or override these ANILCA standards and procedures.

We also note one key error in the list of activities and uses which may be authorized or allowed under the interim management guidelines. On page SUIT D-8, under Public Use Cabin, Table D-1 states that public use cabins are not allowed within river corridors in either designated wilderness or minimal management areas. This is not correct. This guideline should be revised to recognize the authority for cabin construction found ANILCA Section 1315(d), which would not be superseded by any management guidelines whether a river if found suitable or eventually designated.

**Cabins**

We repeat our earlier comments on cabins since the DCCP virtually ignores the issue of cabins in the Arctic Refuge.

Guidance for cabin management in the 1988 CCP was developed prior to the promulgation of regulations for the use and construction of cabins within national wildlife refuges in Alaska. At the time the CCP was adopted, cabins were managed under a regional policy that was not uniformly applied and which was not consistent with the provisions of ANILCA. Following public review and comment a revised cabin policy was adopted in 1989. Formal cabin regulations were adopted in 1994.

The regional cabin policy was revised in 2010, without any public notice or opportunity for public review and comment. We question whether its use is appropriate in making any determinations regarding the permitting of cabins on the Arctic Refuge.

The Service estimated in the 1988 CCP that there were 37 cabins on refuge lands used for trapping or other customary and traditional subsistence uses. According to that CCP, 25 of those were used to "some degree" and 12 were not being actively used. Twelve of the cabins were under special use permit. The original CCP (pg. 210) states: "The Service eventually will place all of the cabins on refuge lands under permit, or declare them abandoned after researching their pattern of use."

The 1988 CCP also stated that a detailed inventory of cabins and their uses on refuge lands would be conducted and that before declaring a cabin abandoned, the Service will research its pattern of use and that all cabins determined to be abandoned will be disposed of in accordance with Service policy.

The DCCP provides no specific information on the present status of cabins or cabin permits on the Arctic Refuge. We do understand that there are fewer cabins being used or under permit than when the original CCP was adopted. The revised CCP should include the results of the cabin inventory and the current status of cabins on the Arctic Refuge, including a listing of any that have been removed since the 1988 CCP was adopted.

The original CCP stated that the Service has no plans for constructing or designating new public use cabins, but at least acknowledged that cabins may be constructed or designated if necessary for refuge management and or public health and safety. The DCCP (pg. 2-64) states that public use cabins will not be placed on the refuge, with no mention of the public health and safety issue.

ANILCA 1315(d) states that within wilderness areas the Secretary of the Interior is:

> *"authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins and shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape."*

The Revised CCP and Record of Decision should allow either the designation of existing cabins or construction of new cabins for public use in the non-wilderness portions of the refuge. Consistent with ANILCA Section 1315(d), the need for public use cabins or shelters for public health and safety purposes within the designated wilderness portion of the refuge should be allowed under whatever alternative is implemented. There is a significant segment of the public that considers public use cabins within conservation system units, including the Arctic Refuge, as both appropriate and desirable.

**1002 Area**

The Service chose to eliminate from further study in the DCCP any consideration or examination of oil and gas leasing or development within the 1002 Area in the range of alternatives. The justification given is that the Service has no administrative authority over oil and gas development because under ANILCA 1003 only Congress can authorize oil and gas development in the area. Putting aside the obvious inconsistency between the Service's decision to recognize this section of ANILCA while ignoring the equally clear language in Section 1326, the DCCP and DEIS should have included an alternative that addressed potential oil and gas exploration in the 1002 Area. Without an examination of this key issue, the DEIS is incomplete and does not meet NEPA's requirements.

In discussing the environmental effects of the various alternatives, the DCCP contains a statement that is without foundation. On page, 5-14, under the discussion of wilderness, is the following: *"By not recommending wilderness designation in the Coastal Plain, the 1002 Area could be opened more easily by Congress to oil and gas."* Similar statements are found elsewhere in this section.

Such statements are categorically false and misleading. A decision on whether to authorize oil and gas development of the 1002 Area by Congress is not bound in any way by a recommendation for wilderness designation of the area. As the DCCP points out numerous times, only Congress can designate wilderness and only Congress can authorize oil and gas leasing within the 1002 Area. This and any similar comments should be removed from the final Revised CCP.

**Management of Fish and Game**

Commission fully supports the authority of the State of Alaska through the Board of Fisheries, the Board of Game and the Department of Fish and Game (ADF&G) to manage all fish and wildlife within the state. We have discussed the DCCP and DEIS with ADF&G staff and share their concerns about the potential for overly restrictive management guidelines proposed in the plan to negatively impact the State's ability to fully manage fish and wildlife by eliminating legitimate management tools.

We also share their concern that, as proposed, the management guidelines will unnecessarily restrict proactive management of fish and wildlife and habitat. Such restrictions are inconsistent with the Master Memorandum of Agreement between the Service and ADF&G. The guidelines should be revised in consultation with ADF&G.

**Public Participation**

We commend the Service on its public involvement process. Public meetings were well advertised, scheduled at generally appropriate times and locations, well staffed and well attended. The 90 day public comment period was adequate. We also thank you for the briefing that you provided to Commission members during the 2010 scoping period. Additionally, we appreciate the briefing from Helen Clough during our Commission meeting last month in Anchorage.

The Commission appreciates the opportunity to comment on this important and controversial plan. We are disappointed with the content and focus of the DCCP and DEIS and ask that our comments be given serious consideration before the Service moves forward with a final plan. We urge the Service to make the necessary revisions to bring the plan and its alternative into compliance with the provisions of ANILCA.

Sincerely,

Stan Leaphart

Stan Leaphart
Executive Director

Cc: Governor Sean Parnell
Secretary Ken Salazar, Dept. of the Interior
Geoff Haskett – Regional Director USFWS
Sue Magee – State ANILCA Program