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Alaska Lands Update

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Issue 52

LEGISLATION INTRODUCED TO REINSTATE THE ALASKA LAND USE COUNCIL

On May 26, Senator Murkowski introduced [S. 3005](#), the “Alaska Land Use Council Act.” Co-sponsored by Senator Sullivan, the bill proposes to reformat and reestablish the Alaska Land Use Council (ALUC), a body initially created under Title XII of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). This action was strongly recommended by multiple witnesses at a December 2015 Senate hearing on ANILCA implementation.

The concept of a cooperative inter-agency body was originally put forward by the Joint Federal-State Land Use Planning Commission in the 1970s and was included in a “consensus” bill developed by Governor Hammond, Representative Young and Senator Stevens.

The original ALUC, co-chaired by delegates from the President and the Governor, was comprised of leadership from federal and state agencies having land and resource management responsibilities in Alaska and two Alaska Native Corporation representatives.

The council was assisted by staff and a Land Use Advisors Committee made up of a diverse group of public land users.

The original ALUC sunset in 1990 under the terms of ANILCA. Prior to discontinuing operations, the council submitted a report to Congress, unanimously in favor of continuing on with some recommendations for improvements to the council’s structure. Many of those recommendations have been incorporated into the new bill.

Similar to the original, the purpose of the council will be to facilitate enhanced coordination and cooperation amongst those managing and vested in land and resource uses in Alaska.

The newly established ALUC will have a Presiding Officer elected from the membership instead of co-chairs. The 12 permanent seats on the council will be balanced between federal, state and Alaska Native representatives, and numerous agencies and entities will be able to participate on an *ad hoc* basis when and where interests and expertise align with the issues being addressed.

The legislation is currently under consideration by the Senate Energy and Natural Resources Committee. Progress can be monitored at congress.gov.

Due to staff reductions, the Alaska Lands Update will be available at least quarterly, and on a monthly basis whenever possible. Thank you for your patience and continued interest!

IN THIS ISSUE . . .

Legislation to Reinstate the Alaska Land Use Council	1
New Rules for the Kenai Refuge Proposed Rule v. Final Rule	2
BLM Proposed Planning Rule	2
Fun Web Tools	3
Reports From the Courts Sturgeon v. Frost Clean Water Act Mosquito Fork	3
BLM Resource Advisory Council	3
BLM Land Use Planning Links	3
Glacier Bay Frontcountry Plan	4
USFS Wrangell Island Project	4
Wrangell-St. Elias Planning	4
Tongass National Forest Updates	4
Commission Information and Announcements	4

New Rules for the Kenai Refuge

The U.S. Fish and Wildlife Service has finalized new regulations on harvest, access, recreation and other public uses on the Kenai National Wildlife Refuge. Many new rules implement decisions made in the refuge's 2010 Revised Comprehensive Conservation Plan. The following summary highlights some key provisions and management changes:

Access Closures: imposes boat motor restrictions in some lakes and portions of the Kenai River; restricts boat size and capacity in portions of the Kenai River; nonmotorized wheeled vehicle use limited to designated roads, including bicycles and game carts; requires registration for access to canoe routes

Access Openings: expands area of airplane operation on Chickaloon River Flats; opens one lake in designated wilderness to airplane access for limited hunting; reduces timeframe of landing prohibition on lakes with trumpeter swans; increases allowable width of snowmachines from 46" to 48"

Public Use Closures: prohibits firearm discharge on Kenai and Russian rivers with limited exceptions; restricts camping in certain areas to maximum two or three nights at designated campsites; limits number of shed antlers that can be collected for personal use; codifies restrictions at public use cabins and developed campgrounds; specifies time personal property can be left unattended by certain users and in certain areas

Public Use Openings: re-commits to performing analysis of trumpeter swan use of wetlands and airplane access

Fish and Wildlife Harvest: codifies the permit prohibition on taking brown bears at black bear bait stations; codifies restrictions on hunting and trapping in the Skilak Wildlife Recreation Area; expands area closed to fishing near the Russian River Ferry; makes certain temporary regulations permanent

PROPOSED V. FINAL RULE

Very few changes were made between the proposed rule, issued May 21, 2015, and the May 5 final rule. Here are all the non-editorial changes:

50 CFR §36.39(i)(1)(iv)(B)

Change: adds non-exhaustive list of areas in the Chickaloon River Flats area open to wheeled aircraft landings

Reason Given: requested in a comment

50 CFR §36.39(i)(2)(i)(F)

Change: removes prohibition on boat motors with >10hp on listed lakes

Reason Given: can rely on "no wake" restriction to minimize impacts

50 CFR §36.39(i)(2)(i)(G)(5)(i)

Change: exempts use in defense of life and property from firearms prohibition

Reason Given: additional clarification

50 CFR §36.39(i)(2)(i)(G)(7)(i)

Change: removes June 1 to August 15 timeframe from restrictions on fishing near the Russian River Ferry dock

Reason Given: restrictions during ferry hours of operation is simpler and functionally similar to a limited timeframe

50 CFR §36.39(i)(2)(i)(G)(8)(xi)

Change: removes 4.5 mile stretch of the Middle Kenai River from the limitation on nights spent at designated campsites

Reason Given: will be addressed in a future public planning process

50 CFR §36.39(i)(2)(i)(G)(9)(i)

Change: allows groups larger than 15 people to access the canoe routes through a special use permit

Reason Given: none (this was accommodated under the 2010 refuge plan)

50 CFR §36.39(i)(2)(i)(G)(9)(v)

Change: extends maximum pet leash length from 6' to 9' in developed areas

Reason Given: none (9' is the current maximum leash length)

[Contact CACFA](#) to request a full list of all changes between the proposed regulations and the final regulations.

PROPOSED NATIONWIDE BLM PLANNING RULE

The Bureau of Land Management (BLM) is revising its national regulations and policies governing development of land use plans. Draft regulations were published on the BLM website in advance of the February 25 publication in the FEDERAL REGISTER. Public meetings were held in Sacramento, CA, and Denver, CO; two webinars were held and the Alaska State Office hosted webinar viewings with Question and Answer sessions in Anchorage and Fairbanks. The public comment period was extended in April and closed in May. The final rule is expected to issue this winter.

Here are some of the functional (as opposed to focal) changes proposed:

- reduces minimum public comment periods for draft land use planning efforts from 90 days to 45 or 60 days;
- requires input and information be "high quality" (as defined) in order to be considered in the plan;
- changes the official in charge of the planning effort from the State Director to a non-specified staff member to be designated by the National Director;
- adds early availability of portions of a draft plan for public review (does not clarify whether public comments will be accepted or responded to);
- requires all land use plans be accompanied by the development of an Environmental Impact Statement;
- removes firm requirements to ensure consistency with federal, state, local and tribal plans, programs and policies;
- replaces traditional methods of notice with a reliance on the Internet; and,
- modifies criteria for the evaluation and designation of Areas of Critical Environmental Concern.

The comment period closed on May 25, 2016. [Contact CACFA](#) or visit our [website](#) to review our comments on the proposed rule. You can also review or download all submitted comments online at [regulations.gov](#).

Fun Web Tools

The Department of the Interior administers a diversity of online resources for the public to come to know and enjoy public lands, including wildlife webcams! While in Alaska, every window is virtually a wildlife webcam, here is one view into marine wildlife you can now experience online:

“Kelp Cam” at Channel Islands National Park (Southern California)

<http://explore.org/live-cams/player/channel-islands-national-park-anacapa-ocean>

Reports From the Courts

STURGEON V. FROST

On March 22, the U.S. Supreme Court unanimously overturned a Ninth Circuit Court of Appeals decision which had affirmed the U.S. District Court’s resolution of John Sturgeon’s lawsuit in favor of the National Park Service. The Court did not decide how the case should be resolved, only that the Ninth Circuit’s analysis and conclusions are not supported by the law. The case was sent back to the Ninth Circuit to review it again, taking the Court’s determination and findings into account.

Among those findings was an affirmation that parks in Alaska are unique within the National Park System and must be viewed as such by the agency in exercising its authority. Writing for the Court, Chief Justice Roberts stated:

Alaska-specific provisions reflect the simple truth that Alaska is often the exception, not the rule. Yet the reading below would prevent the Park Service from recognizing Alaska’s unique conditions.

While the case is pending, the National Park Service will continue to apply its regulations to non-federal lands within the boundaries of Alaska park units.

CLEAN WATER ACT

On May 31, the U.S. Supreme Court issued a unanimous decision finding “jurisdictional determinations” by the U.S. Army Corps of Engineers can be reviewed by a judge as a final agency action. A jurisdictional determination represents the agency’s decision on what areas will be subject to permitting under the Clean Water Act, meaning developers and land owners must engage in the lengthy and expensive permitting process or be subject to fines and penalties. The Court found the public has a right to have the decision reviewed by a judge instead of having to wait until the end of the permitting process to challenge it.

MOSQUITO FORK

On May 4, U.S. District Court Judge Sharon Gleason found U.S. Department of Justice attorneys acted in bad faith by putting forward frivolous arguments, ignoring case law and employing delay tactics that ran up the cost of a lawsuit brought by the State of Alaska regarding its ownership of the submerged lands underlying the Mosquito Fork. The judge ordered the U.S. to reimburse the State for its attorney fees and costs.

The **Bureau of Land Management** is re-opening the nomination period for appointment to its **Resource Advisory Council (RAC)** in Alaska. The RAC is a 15-member advisory panel which provides advice and recommendations to the BLM on resource and management issues for 75 million acres of federal public land in Alaska.

During this nomination cycle, the Bureau is looking to appoint members to the following **five available seats**:

- two seats for members having expertise or interest in energy/minerals, commercial or developed outdoor recreation, transportation/rights of way or off-highway vehicle users;
- two seats for members having expertise or interest in dispersed recreation, archaeology/history or members of environmental organizations; and,
- one seat to represent Alaska Native interests, an academic involved with natural resource management, a general government elected official, employee of the State of Alaska Department of Natural Resources or the public at large.

Nomination forms may be found at <http://blm.gov/ak/rac> and must be accompanied by at least one letter of recommendation. The submission deadline during this second recruitment will be published in the FEDERAL REGISTER shortly. After publication, the nomination period will run for 45 days.

Not online? Updated deadlines, forms and detailed information on how to nominate or apply may be requested from June Lowery at (907)271-3130.

No formal comment periods are currently open for Bureau of Land Management land use plans in Alaska. The following websites provide documents and updated information on current efforts of interest:

Squirrel River Management Plan: <https://eplanning.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=36163>

Eastern Interior Resource Management Plan: <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=1100>

Bering Sea-Western Interior Resource Management Plan: <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=48431>

Central Yukon Resource Management Plan: <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=45823>

Scoping has begun on a frontcountry plan for **Glacier Bay National Park & Preserve**. A June 3 [press release](#) notes a focus on a **renewed vision for Bartlett Cove** and a June 2016 [news-letter](#) lists six specific inquiries to guide public input. The planning area will include Bartlett Cove and surrounding lands and waters outside Wilderness.

Public comments may be submitted through **Monday, September 5**, using the online comment form at <http://go.nps.gov/BartlettCove> or at one of the following open house opportunities:

- Tuesday, June 14, 4pm-6pm
Salmon River Park, Gustavus
- Thursday, June 16, 11am-1pm
Canoe Carving Shed, Hoonah

Not online? Comments may be submitted by mail to Superintendent Philip Hooge, Glacier Bay National Park & Preserve, PO Box 140, Gustavus, AK 99826. Contact Sara Doyle at (907)697-2675 for documents and information.

The **U.S. Forest Service** has published and is accepting comments on the draft Environmental Impact Statement (EIS) for the **Wrangell Island Project**. The project proposes timber harvest, forest restoration and road construction on Wrangell Island in the Tongass National Forest. Documents and associated road and unit cards can be reviewed and downloaded at <http://www.fs.usda.gov/project/?project=34831>.

Comments on the project and draft EIS must be received by **Monday, July 18** and may be submitted via email to comments-alaska-tongass-wrangell@fs.fed.us.

Not online? Comments may be submitted by fax to (907)874-7595; by mail to Robert Dalrymple, District Ranger, Wrangell Ranger District, PO Box 51, Wrangell, AK 99929; or, by hand delivery to 525 Bennett Street in Wrangell. Hard copies/DVDs are available at the District Ranger Office in Wrangell and Forest Supervisor Office in Ketchikan and may be requested by contacting Andrea Slusser at (907)874-2323.

The **National Park Service** has released its Proposed Action for the **Wrangell-St. Elias National Park & Preserve Backcountry and Wilderness Stewardship Plan**. The Proposed Action reflects the initial phase of the planning effort and is not a decision document; public input at this stage helps to inform next steps, including how the plan can best address the park's diverse management needs.

Public comments can be submitted through **10pm Alaska Time on Saturday, July 30**, using the online comment form at <http://parkplanning.nps.gov/documentsList.cfm?projectID=44299>.

Not online? Comments may be submitted by mail to Wrangell-St. Elias National Park & Preserve, Attn: Bruce Rogers, PO Box 439, Copper Center, AK 99573. Additional information and meetings with staff may be requested by contacting Bruce Rogers at (907)822-7276, Nyssa Landres at (907)822-7240 or Morgan Gantz at (907)822-7213.

The **Tongass National Forest** is changing how it updates the public on plans, projects and matters of interest by moving to online notices via email. Anyone interested in being notified of major activities can self-subscribe to one, all or a selection of email lists.

To sign up, visit <http://tinyurl.com/tongassnationalforest>, provide your email address and subscribe. You can also use this site to unsubscribe.

As of now, each mailing list appears to be specific to a district, plan or project, meaning it will be a challenge to stay informed of (and know when to subscribe to) new activities in a larger area or on a particular subject-matter.

One rather burdensome solution is to sign up to receive the Schedule of Proposed Actions, which you can skim to find new or upcoming projects that might be of interest. As this transition proceeds, other options may become available to stay notified more broadly.

Not online? Contact Michelle Putz at (907)747-4278 no later than **June 24** to be added to the postal mailing list.

CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

101 Airport Road | Palmer, AK 99645
dnr.cacfa@alaska.gov
<http://dnr.alaska.gov/commis/cacfa>

As of August 2015, the Commission no longer has a staffed office in Fairbanks.

The Commission's next meeting will be in Anchorage on October 28 & 29 at the Legislative Information Office.

COMMISSIONERS

Senate-Appointed

Rod Arno ~ Wasilla
Sen. John Coghill ~ North Pole
Warren Olson ~ Anchorage

House-Appointed

Gail Phillips ~ Anchorage
Ron Somerville ~ Juneau
Rep. David Talerico ~ Healy

Governor-Appointed

Mark Fish ~ Big Lake
Teresa Hanson ~ Fairbanks
Charlie Lean ~ Nome
Kathleen Liska ~ Anchorage
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Frank Woods ~ Dillingham

