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

December 2, 2010

Mr. Kevin Kilcullen, Visitor Services
National Wildlife Refuge System
U.S. Fish & Wildlife Service
4401 North Fairfax Drive, Room 635
Arlington, VA 22203

Dear Mr. Kilcullen:

The Citizens' Advisory Commission on Federal Areas has reviewed the Draft Friends Policy 633 FW 1-4. We offer the following comments for your consideration.

As a commission created and funded by the State of Alaska, consisting of a combination of private citizens and elected officials, the Commission is quite familiar with the contributions that are made to local, state and federal agencies by individuals who volunteer their time and energy. Commission members and staff work regularly with members of the public who serve on federal advisory groups, other state commissions and boards as well as many non-governmental organizations (NGO) representing a wide range of interests.

The Commission fully recognizes the benefits of cooperative relationships or partnerships between the public and government agencies at all levels. But we are also very mindful of the need to maintain clearly defined boundaries between the functions and legal responsibilities of an agency and its personnel and the volunteers or organizations who may have a partnership agreement with that agency. Maintaining those boundaries is even more difficult when agency personnel are also members of organizations or "friends" groups in a partnership agreement. Our review of the Draft Friends Policy indicates that it fails to provide sufficient guidance or safeguards to prevent serious conflicts of interest, abuses of authority and improper expenditure of appropriated funds by agency personnel.

For example, the draft policy points out that a Friends group may perform functions that staff are prohibited from doing, such as fundraising or "advocating for their site and Service programs with members of Congress." We believe that the draft policy will not prevent violation of federal statutes that prohibit use of Service funds and resources for advocacy purposes. In its investigation of the Bureau of Land Management's National Landscape Conservation System,

the Department of the Interior Office of the Inspector General spoke to the prohibition on lobbying (advocacy):

> *18 U.S.C. § 1913 prohibits the use of appropriated funds for activities that directly or indirectly are intended to influence members of Congress or to "favor, adopt, or oppose" any legislation or appropriation. Section 402 of the 2006 Interior Appropriations Act prohibits the use of appropriated funds "for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete."*[1] (emphasis added)

18 U.S.C. § 1913 also prohibits use of any part of the funds appropriated by Congress to influence an official of any state, local or territorial government or an Indian tribe.

By providing Friends organizations with support such as office space, office equipment and communication systems, utilities such as water, electricity, heat and air conditioning, information, technical assistance and training, the Service is indirectly using or allowing the use of appropriated funds. When those organizations receiving this in-kind support (all of which is paid for by appropriated funds) engage in activities intended to influence members of Congress or other government officials, even if those activities do not occur on Service managed property or when using Service equipment, federal law is violated. The draft policy should be revised to disallow any grants or in-kind support for any organization engaged in advocacy or lobbying of Congress or other government entities, even if that advocacy represents only a portion of the organization's functions.

In reading newsletters from the Friends of the Alaska Wildlife Refuges from the last few years we found numerous references to various lobbying efforts by this group, including opposing the land exchange and road legislation in Izembek NWR, the proposed land exchange in the Yukon Flats NWR, presenting testimony before a Congressional committee on an FY 2008 DOI appropriations bill, and testifying on possible Bristol Bay oil and gas lease sales at Minerals Management Service hearings. We should note that access to these newsletters was from a link on the U.S. Fish & Wildlife Service Alaska Region website.

This link is troubling because Service personnel at both the refuge and regional office levels were previously or are currently responsible for preparing environmental impact statements and other documents on these projects. That, coupled with the fact that Service personnel are members of Friends of the Alaska Wildlife Refuges, raises serious questions with the public about the objectivity of the EIS or planning process for these projects. The Service should reconsider its policy on allowing these types of links. If they are retained, there at least should be a disclaimer assuring users that the views or positions of a friends group do not represent those of the Service.

We encourage the Service to retract this draft policy and make some significant revisions so that the boundaries between friends organizations and the agency are more clearly defined. Further,

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[1] *Investigate Report- National Landscape Conservation System Advocacy,* September 29, 2009, U.S. Department of the Interior, Office of the Inspector General.

serious consideration should be given to not allowing use of Service managed property or facilities or providing other in-kind support to any friends group that engages in lobbying or advocacy activities.

We trust you will find these comments helpful. As stated above, we understand and appreciate the importance of volunteers and groups that provide support to the programs of agencies such as the U.S. Fish and Wildlife Service. But we also understand the importance of an agency maintaining its objectivity and the confidence of the public.

Sincerely,

Stan Leaphart

Stan Leaphart
Executive Director