

STATE OF ALASKA

**FRANK H MURKOWSKI
GOVERNOR**

ANILCA IMPLEMENTATION PROGRAM

550 W. 7TH AVENUE, SUITE 1660
ANCHORAGE, ALASKA 99501
PH: (907) 269-7470 / FAX: (907) 269-3981
Sally_Gibert@dnr.state.ak.us

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Mr. Robin West
Refuge Manager
Kenai National Wildlife Refuge
Post Office Box 2139
Soldotna, AK 99669-2139

Dear Mr. West:

The State of Alaska is an active participant in the scoping process for the revision of the Kenai Refuge Comprehensive Conservation Plan (CCP). We appreciate the scoping meetings and other opportunities to identify the issues for consideration in the plan. For the record, this letter documents the issues of concern or interest to the State, although we recognize and appreciate that the Refuge has already identified many of these. The issues listed are not necessarily in priority order.

Available Data and New Research

Common to many issues is the need for adequate data to support sound decision making. The State is interested in the type, source, and scope of data that will provide the basis of management actions in the revised CCP. Our interest is especially keen when state authorities are expected to contribute toward management solutions. For new research that the refuge desires for future management decisions, we request early consultation in the objectives, design and conduct of studies. Our experience shows that controversial issues can often be quieted with the application of defensible, objective data.

Studies For Traditional Access

We encourage the Kenai Refuge to participate with the State in a cooperative effort to complete the studies previously embarked on to document traditional (pre-ANILCA) access under ANILCA Sections 811 and 1110(a). This information will be important for evaluating current and future management of access within the Kenai Refuge.

Non-Motorized Wheeled Vehicle Use

Kenai Refuge regulations currently restrict the use of all non-motorized wheeled vehicles to roads designated for public vehicles. We support the Refuge's intention to consider authorizing expanded use of mountain bikes, canoe carts, game carts, and other human or domesticated animal powered carts on existing trails and roads on the Kenai Refuge. At a minimum, we request the liberalization of the use of closed or seasonally open roads, such as Mystery Creek or

any of the other gas field roads. Use of these existing routes would create additional recreational access, especially for hunting, fishing and trapping. In some cases, additional access may help disperse use to underutilized portions of the refuge, possibly reducing negative impacts to higher use areas. A review of activities, regulations, and impacts on adjacent national forest, national park and state land could provide additional guidance on management options and, with coordination of regulations, allow more universal entry criteria for the public given the variety of public lands present on the Kenai Peninsula.

We recognize that any regulatory changes recommended by the revised CCP must undergo a separate rulemaking process with additional public review through the Federal Register.

Trail and Road Access

As mentioned in the State's 1993 letter commenting on the proposed Public Use Management Plan for the Kenai Refuge, the State supports consideration of trails to increase recreational opportunities on the refuge. Trail extensions in the Swan Lake Canoe Trail System, for example, would provide easier access to Big Mink, Yearling, and Meadow lakes, and several small unnamed lakes east of Drake and Skookum lakes. We request the Service reconsider development and maintenance of trails within the Kenai Wilderness. Under current refuge policy, a Wilderness designation precludes construction of new trails, though their construction is provided for in ANILCA. (See the management guidelines template for refuges in Alaska). This policy, therefore, unnecessarily precludes access to otherwise inaccessible areas and forces continued concentration of public use in heavily used areas. We are not advocating new trails everywhere in the backcountry, but for judicious consideration of trail additions or extensions that responsibly improve the overall public use capacity of the refuge.

We also encourage the CCP to address the maintenance and upgrade of existing trails, especially to trails that lead to waterbodies. Adequate maintenance can simultaneously increase trail capacity and visitor enjoyment while reducing impacts on refuge resources.

Snowmobile Use in the Refuge

We request re-evaluation of the snowmachine closure areas within the Kenai Refuge during the revision of the CCP. All refuges in Alaska allow snowmobile use, as specified by ANILCA Section 1110(a); however, Kenai Refuge specific regulations implemented in 1986 (50 CFR 36.39) are a notable exception. These regulations prohibit snowmachines in all areas of the refuge above timberline (except Caribou Hills), the four sections around the refuge headquarters, within the Skilak Loop Special Management Area, and around the Swanson River/Swan Lake canoe routes. The closures restricted access important for traditional activities in parts of the refuge, but did not adequately evaluate these consequences, such as impacts to winter sport fishing, especially along the canoe routes. We are also concerned about extending snowmobile closures in the refuge, further decreasing access and public use.

For areas above tree line, we request the CCP evaluate if this comprehensive restriction is necessary or if there are areas where snowmachines could be operated without undue impacts to wildlife or habitat. State biologists are willing to assist in this evaluation.

We also request reevaluation of the December 1 date to determine the opening of snowmachine use within the refuge. There may be some years when snowfall depth and cold temperatures combine to provide adequate habitat protection prior to this date. The State would prefer a system based on current snowfall and temperature conditions to determine the opening of the refuge to snowmachine use as implemented in other state and federal conservation units in Alaska. In years with early winter conditions, an earlier opening would assist trappers in accessing areas between the opening of trapping season on (generally) November 10 and December 1.

We also request that the Kenai Refuge no longer reference the pre-ANILCA, 1971 Environmental Assessment on snowmachine use in the refuge. This out of date document is not relevant since, as is noted above, ANILCA allows use of snowmachines on all refuges in Alaska unless restricted by specific regulation. The 1971 EA is also poorly written and would likely not pass editorial scrutiny if submitted at the present time.

Aircraft Access

The 1986 regulations (50 CFR 36.39) limited refuge aircraft landings, primarily over concerns about impacts to trumpeter swans, significantly restricting public access for recreation, especially fishing and hunting, in otherwise inaccessible areas. The State urges the Service reconsideration of these regulations in the CCP. The regulations conflict with the intent of ANILCA 1110(a). Only 8% of the lakes in the refuge are accessible by road, with the majority of the remaining water bodies easily accessible only by aircraft; yet 50 CFR 36.39 restricts aircraft use to 16 designated lakes on a year-round basis and three lakes that support ice fishing during the winter. The rule also closed approximately 116 lakes north of and 12 lakes south of the Sterling Highway. (Most of the 12 lakes were apparently administratively closed to aircraft use prior to 1980, but were never placed in regulation as required by ANILCA).

In addition, the 1986 regulations prohibit the operation of aircraft on any lake within the refuge that has nesting trumpeter swans and/or broods from May 1 to September 30, with the exception of Lonesome and Windy Lakes, where the closure is from May 1 to September 10. Because of the difficulty in distinguishing between non-breeding and breeding pairs of swans, as well as their similarity to tundra swans, any lake inhabited by swans virtually eliminates all aircraft use. The refuge management objective for trumpeter swans in the existing CCP is to maintain 40 annual breeding pairs. At the time the CCP was finalized, we understood the Service would revisit and potentially liberalize aircraft restrictions if trumpeter swans maintained or exceeded the management objective. The population of nesting trumpeter swans in the refuge has exceeded 40 nesting pairs since the early 1990's and the last census conducted in 2000 showed approximately 85 paired trumpeter swans. If trumpeter swan populations continue increasing with the current regulatory restrictions, the refuge could conceivably close additional lakes to aircraft use. We urge adherence to the refuge's commitment to reevaluate trumpeter swan-related aircraft closures made during the Public Use Management Planning (PUMP) process that was never completed.

We request that reconsideration of the 1986 regulations also include reevaluation of the closure of many traditional non-lake landing strips on the refuge. These closures also eliminated fishing,

hunting, and other recreational activities in areas that are otherwise difficult to access by other means, resulting in reduced opportunity for recreational activities, especially hunting.

In the PUMP workbook letter of 1993, the State recommended opening the following lakes and areas to aircraft landings: Diamond, Kuguyuk, Kranberi, Angler, Dipper, Phalarope, Kenaitze, Kakoon, Neckshorta, Trigger, Crooked, Wren, Embryo, Falcon, Rabbit Foot, Jay, Muskrat, Goat, Timberline, Lake Emma, the landing strip at River Mile 7.5 of the Chickaloon River, the landing strip at the head of Timberline Lake, the two large landing strips along the gasline and a small un-named lake located approximately ten river miles upstream from the River Mile 7.5 airstrip. The State continues to urge the Kenai Refuge to reevaluate the regulations that closed these areas and to coordinate openings and closures with other appropriate federal and state agencies.

Chickaloon Flats

Aircraft landing on Chickaloon Flats are addressed in the 1986 regulations at 50 CFR 36.39(d)(i)(B)(v) as follows:

Airplanes may operate only within designated areas on the Chickaloon Flats, as depicted on a map available from the Refuge Manager.

Current implementation of this regulation is problematic because of changes in the landscape that render some of the landing restrictions impractical, and because the map of landing sites is of poor quality and has limited availability. A 1972 MOU between the agencies cooperating on management of the Chickaloon Flats provides an opportunity for the affected agencies to collectively address this problem. As initially suggested by the Alaska Department of Fish and Game (January 7 and March 10, 2004), the State requests that an agency work group tiering off the MOU reevaluate the landing areas that are currently identified and then produce and distribute an improved map to inform the public about the location of viable, legal landing sites. This process need not wait for completion of the CCP. The agency work group can independently work with the public, including affected pilots, and identify solutions that the refuge may implement administratively under the above regulation.

Transportation and Utility System Corridors

Transportation and utility corridors (e.g., oil and gas pipelines, transmission lines, service roads) currently exist on the refuge. Some of these corridors may need renewal of authorization concurrent with and after the development of a revised CCP. As a general principle, the State supports the re-authorization of existing corridors and maximum flexibility for the consideration of new corridors where and when the need arises.

Oil and Gas Development

We request the CCP remain flexible regarding new oil and gas facilities or modification of existing facilities. While current technology may limit the ability to recover oil and gas on existing fields within the external boundary of the refuge, the State encourages approaches that accommodate new technologies to recover oil and gas resources, new resource information, or changing economics.

Public Facilities

By Service accounts, 500,000 visitors utilize refuge facilities annually, including campgrounds, public use cabins, and waste facilities. Existing facilities are increasingly over capacity during peak use times, causing negative impacts on both the refuge and refuge visitors. We request the CCP not limit the refuge's ability to address increased use of refuge resources, particularly on refuge lands that support activities along the Kenai River. We specifically request continued flexibility to construct or expand facilities to allow a greater number of visitors to safely and enjoyably experience the refuge. This approach is consistent with the 1985 CCP that allows for increased development of visitor facilities to meet public demand.

Roadside Pullouts and Vegetation Clearing

At the suggestion of the Alaska Department of Transportation and Public Facilities (DOT/PF), the State recommends the CCP address pulloffs and scenic viewing opportunities. In particular, the CCP may address the cutting of vegetation within state rights of way to improve scenic and wildlife viewing opportunities on roads within or bordering the refuge. As transportation improvement projects continue on or near the refuge, consideration of new roadside pulloffs may facilitate other opportunities for environmental education and interpretation of refuge resources. An issue related to transportation infrastructure on the refuge, but potentially outside of the CCP process, is the transfer of management responsibility for Skilak Loop and Ski Hill Road to the Service from DOT/PF.

The "de facto rest stops" found on the Sterling Highway should be addressed cooperatively between the Service and the State. The Service has identified this issue; however, the State lacks funding to develop public facilities at these locations.

Other Road Improvement Activities

The State is generally interested in working with the Service to address the management and maintenance of roads on the refuge. We are unsure if or how the State's activities described below need to be addressed in the revised CCP; therefore, ongoing communication will be valuable for all parties.

- DOT/PF will begin road improvement activities on sections of the Sterling Highway from mile 60 to 79 on the state right of way within the external boundary of the refuge sometime after FY06. These improvements may require the use of material sites within the refuge. Further discussion is needed between Refuge staff and state staff on road improvement projects.
- As previously described, the Funny River Road improvements may present an opportunity for cooperative planning between the State and Service with respect to viewsheds and pulloff developments.
- The Cooper Landing bypass planning process may result in an alternative which impacts the refuge. Close cooperation between the State and Service will be required prior to and during the development of the alternative route.

Habitat Manipulation

The State supports the Refuge's intention to review habitat manipulation guidelines in the CCP, especially in regard to wildlife population goals. On page 113 of the 1985 CCP (Preferred Alternative), viable methods of increasing wildlife populations on the refuge include mechanical manipulation and commercial harvest. We encourage consideration of additional options, such as controlled burns.

At the present time, achievement of the goals presented in the Kenai Refuge Moose Habitat Management Plan and the Fire Management Plan appears to be lagging. The Fire Management Plan (2001) says that it will:

Utilize wildland and prescribed fire as a cost effective habitat management tool where practicable, to maintain or enhance the natural diversity of ecosystems, wildlife habitats and wilderness values, and to maintain existing populations of moose and other early seral-dependent species.

The Moose /Habitat Management Plan (1996) Executive Summary states:

The Service's mandates for managing wildlife and habitats in their natural diversity while providing opportunities for wildlife-orientated recreation on the KNWR suggests the need for maintaining moose populations on the KNWR at near-current densities, subject to natural fluctuations. (*Approximately 5,500 moose are reported to inhabit GMU 15, most of which lies within the KNWR.*)

Prescribed burning is the most practical, economical and ecologically sound means to maintain early seral forest stands in the acreages necessary to sustain near-current moose densities on the KNWR and to manage the amount and continuity of forest fuels in order to decrease the risk of large and catastrophic wildfires. *italics added*

Current estimates for moose populations throughout all of GMU 15 (which includes areas that are outside the Kenai Refuge) appear to be in the 6000 animal range (ADF&G, 2001) and declining. It is understood that wildland fire management is an extremely difficult, potentially dangerous and controversial management challenge on the Kenai Peninsula. The goals of the management plans referenced above, however, should be reviewed to consider actions that can be taken before the stated goals for moose populations decline to the point that they become difficult to meet.

Trapping

In a letter dated January 7, 2004, the Alaska Department of Fish and Game outlined concerns about trapping regulations affecting the National Wildlife Refuge System throughout Alaska. Several of these concerns affect the Kenai Refuge specifically and may be able to be addressed in the revised Kenai Refuge CCP.

Black Bear Baiting

We request the CCP consider expanding the areas in which baiting for black bear is allowed. Bear baiting is a common and legally recognized method of harvest for black bears in Alaska

under both state and federal regulations. We are unaware of a refuge specific regulation closing any portion of the Kenai Refuge to use of bait to hunt black bears, and in particular 50 CFR 32.2(h) states that:

(Baiting is authorized in accordance with State regulations on national wildlife refuges in Alaska)

In addition, ANILCA Section 1314 confirms state management of fish and wildlife, and Section 1316 provides for use of temporary stands and feeding stations. By refuge-specific policy, however, bear baiting is only allowed via permit on a small portion (about 5%) of the refuge.

There are reports of hunters waiting in line up to 24 hours to receive one of the few permits available, and some hunters have been displaced off the Kenai Refuge by not being able to receive permits in desirable areas. There are, however, no reported biological concerns for black bear populations on the Kenai Peninsula. There may be large areas of the Kenai Refuge where bear baiting would be an effective method of assisting in the harvest of black bears with little or no impact on other recreational visitation. While we encourage greater accommodation of black bear baiting, the State is also willing to work with the refuge to identify and regulate areas that may need to be closed to this activity for good cause.

Finally, this legal form of hunting should also be managed via state or federal regulation, not policy. In fact it may actually be easier under some situations for the State to regulate (limit) this activity than the Service.

Management Authority for Shorelands and Waterbodies

Since the majority of the existing Kenai Refuge was included in the pre-ANILCA Kenai Moose Range, the management authority and jurisdiction remain in dispute for many waterbodies on this refuge. Many years may pass until these legal questions are fully sorted out. In the meantime, we request 1) the CCP simply and frankly acknowledge the existence of these disputes, and 2) the Service work cooperatively with the State in the context of State planning efforts to address issues on waterbodies that are or may be navigable. Management of Kenai Lake and River is outlined in the State Comprehensive Management Plan, including the Kenai River Special Management Area (a Special Use Land Designation) and MOU, and the State's Kenai Area Plan. We request the Service address issues related to crowding and conflicts on the Kenai River through existing state regulations, policies, and agreements, all developed through public planning processes. The State is keenly aware of, and willing to address, access issues associated with other popular waterbodies on the Kenai Peninsula such as the Russian River.

State-Owned Uplands within the Refuge

There are several parcels of state land within the external boundary of the refuge. We request the CCP identify these parcels in text, locate them on a land status map, and reference appropriate state area plans for information on how the state lands are managed.

Refuge Management Adjacent to State Park Lands

We request the revised CCP recognize the management intent for adjacent state parklands (primarily the KRSMA and Kachemak Bay State Park). We also request the refuge work with

the State to strive for compatible management in border areas to minimize confusion to the public.

Beetle Killed Trees Along Access Corridors

Beetle killed trees along utility corridors, roads and trails present a safety hazard to refuge users and a maintenance problem to utility and refuge managers in the field. The State would like to discuss proactive management of the affected trees to reduce risks to users and existing infrastructure. This may or may not be an issue suitable for the CCP.

Reducing Fire Risk on Nonfederal Land

We request the Service work with the State to address the managed reduction of beetle killed trees on refuge land adjacent to state and private land to reduce the fire risk, especially south of Tustumena Lake. A cooperative process could identify areas where beetle killed trees pose a potential risk and evaluate possible solutions to reducing the risk. Potential management actions include a change in regulations to allow prescribed burns on the refuge of more than 4000 acres, and targeted use of a logging or firewood gathering as a method to reduce affected trees.

Forest Management on Private Inholdings

Some owners of inholdings within the refuge have indicated interest in logging timber resources on their lands. Access roads to inholdings across refuge lands under Section 1110(b) of ANILCA may become a significant issue during the CCP revision process.

Natural Objects Collection

Under current regulations, it is technically illegal for non-subsistence users to remove any natural object, such as wild berries, shed antlers or mushrooms from the Kenai Refuge, except for the long-standing policy to allow personal Christmas tree cutting. We support the refuge's intent to evaluate development of reasonable regulations for the collection and personal use of natural object collection without a permit. We are working with the National Park Service on draft regulations that may be useful to evaluate in this context.

Thank you for your consideration of these comments. State agency representatives look forward to working with you and other refuge and planning staff as the CCP revision process unfolds.

Sincerely,

/ss/

Sally Gibert
State ANILCA Coordinator

cc: Rob Campellone, CCP Planning Team Leader
Ken Rice, Chief of Planning, Regional Office