

STATE OF ALASKA

SARAH PALIN, Governor

ANILCA IMPLEMENTATION PROGRAM Office of Project Management and Permitting

550 W. 7TH AVENUE, SUITE 705
ANCHORAGE, ALASKA 99501
PH: (907) 269-7477 / FAX: (907) 334-2509
sally.gibert@alaska.gov

June 2, 2008

Dennis Bschor, Regional Forester
Alaska Region, US Forest Service
PO Box 21628
Juneau, Alaska 99802-1628

sent electronically to: comments-alaska-regional-office@fs.fed.us

Dear Mr. Bschor:

The State of Alaska (State) reviewed the Forest Service's (Service) "Notice of Revised Proposed Policy for Outfitting and Guiding Land Use Fees in the Alaska Region" (Proposed Fees), dated April 18, 2008. We appreciate the effort that went into promulgating these Proposed Fees.

Balancing Market Value with Similar Fees

Although the State recognizes the constraints¹ regarding development of the Proposed Fees, it is unclear how the Service balanced the market value of an activity with charging similar fees for similar activities. For example, black and brown bear hunting might be considered similar activities – bear hunting – and require similar fees; however, the market value of a brown bear hunt is substantially higher than that of a black bear hunt. We request further explanation of how the Service balanced these constraints.

Further Explanation of the Adjustment for Alaska Conditions

We also request discussion of the process used to formulate big game hunting fees. We concur that the bottom-up pricing method (BUPM) warrants an adjustment – as fees at BUPM levels are noticeably high compared to general recreational uses. More specifically, we request an explanation of the ratios used to "adjust for Alaska conditions," why those ratios were necessary, and other ratios considered. The State recommends the final ratios remain constant, as Alaska Department of Fish and Game (ADF&G) tag fees might change over time.

Fees Charged when Multiple Activities are Involved

¹ The Independent Offices Appropriation Act of 1952 requires the Service "charge fees for the use of goods and services provided by the agency." (TTC v. Glickman, page 2) This is interpreted by the Office of Management and Budget as meaning "user charges will be based on market prices." (TTC v. Glickman, page 2) The US District Court, in *The Tongass Conservancy v. Glickman*, requires that a "fee schedule be devised that is fair and will not result in the assessment of disparate fees charged TTC and other similarly situated users for similar use of the National Forest Lands, including the Tongass National Forest." (TTC v. Glickman, page 8)

The State requests clarification regarding the fees charged outfitters and guides who conduct multiple activities concurrently on forest service lands. Currently, as the fee policy notes, “the Alaska Region charges the highest fee from the fees for those activities.” The Service would eliminate this existing practice for combined activities in the general recreation category under the Proposed Fees as there would no longer be a “highest fee.” We recommend the Service continue in the spirit of the former policy and charge only one fee when outfitters and guides conduct multiple activities within this category.

The Service is silent on fees charged for multiple activities within the same category outside of general recreation. Hunters often purchase additional tags for different species should the opportunity present itself. For example, the primary species of interest might be deer, but it is not uncommon for hunters to incidentally take a black bear. Charging the highest fee from those activities is unreasonable and we recommend the Service charge only for the primary species – in this example, the deer hunt.

Further, when activities involve multiple categories, the fee policy proposes “the outfitter or guide would pay the fee for the primary activity authorized in the corresponding permit.” We interpret this statement as meaning the Service will charge outfitters and guides only one fee. For instance, over-snow vehicle tour guides would not be charged additional fees if their service included an activity in the general recreation category, e.g., remote wildlife viewing. If this is not the case, we request a clarification and/or justification.

Phased Implementation

Outfitting and guiding activities are commonly reserved well in advance. Since the Proposed Fees, in some instances, are considerably higher than those currently charged by the Service, we recommend a phased implementation process to help reduce any negative economic impacts to outfitters and guides.

Clarification of ADF&G Responsibilities

The ADF&G is responsible for maintaining the sustainability of fish and wildlife and, unless superseded by federal law, administers the harvest of said fish and wildlife on all lands in Alaska, regardless of ownership. Controlling the allocation or use of these resources through fees would be inconsistent with existing federal law. We understand this is not the intent of the Service; nonetheless, we request the affirmation of Section 1314 of the Alaska National Interest Lands Conservation Act (ANILCA) that the Proposed Fees will not “diminish the responsibility and authority of the State of Alaska for management of fish and wildlife” on forest service lands.

Table 2 – Comparison of Initial and Revised Fees

Lastly, we understand that, due to a formatting error, Table 2 on page 21104 implies over-snow vehicle tours, heli-skiing tours, freshwater fishing, and waterfowl and small game hunting are part of the general recreation category. We presume the Service will have the opportunity to correct this in the final notice.

Thank you for your consideration of these comments. If you have any questions please contact Andrew Levi at (907) 267-2242.

Sincerely,

A handwritten signature in black ink, appearing to read "Sally Gibert". The signature is written in a cursive, flowing style with a prominent initial "S" and a long, sweeping tail.

Sally Gibert
ANILCA Program Coordinator