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Robert Gilmore
Regional Director
U.S. Fish and Wildlife Service
1011 East Tudor Road
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Dear Mr. ^{Bob} Gilmore,

The State has completed its review of the final **Becharof** National Wildlife Refuge (NWR) Comprehensive Conservation Plan (CCP) Environmental Impact Statement and Wilderness Review. We find that the final CCP differs from the draft plan and our related comments to such a degree that we cannot support it. The preferred alternative of the final plan (Alternative B) is a significant departure from the proposed alternative of the April 1984 draft plan (Alternative C), particularly pertaining to oil and gas, access and wilderness. Cumulatively, the revised land classifications and uses preclude adjacent landowners from conducting seismic exploration on refuge lands; may curtail access for existing recreational and traditional subsistence uses; and preclude certain fisheries and management techniques which should remain available to managers.

The following comments address the items of major concern to State agencies. We have numerous additional concerns of lesser importance that should be corrected which we will provide if Fish and Wildlife Service (FWS) determines to revise the plan.

Oil and Gas Exploration

All of the 135,000 acres previously proposed for Moderate Management and all of the 267,000 acres previously proposed for Intensive Management are now proposed for Minimal Management. This change is not substantiated by the impact assessment. Chapter VII, Environmental Consequences and Chapter VIII, Evaluation of Alternatives show little difference between the new Alternatives A (status quo), B and C in terms of social, economic or environmental impacts. This is summarized on page 123, column 3, paragraph 3 which states that "The same type and level of impacts caused by Alternative A would be expected in Alternative C."

We agree with the FWS that it may not be necessary at this time to develop and implement an oil and gas leasing program for the refuge. However, at a minimum, the CCP should allow for oil and gas exploration in the western part of the refuge. Certain exploration activities, including seismic testing, may be essential in adequately evaluating the oil and gas potential on adjacent State and Native lands to the west of the refuge. The plan's impact assessment and evaluation of alternatives show little impact on refuge resources from allowing exploration activity in this area. The amount of exploration activity likely to occur in this area is minimal and mitigation measures would be developed to protect fish and wildlife resources. The benefits from exploration activities, i.e. -- increasing knowledge of the geology and thereby the probability of an oil and gas discovery -- are significant. The plan should provide the flexibility to allow for this activity especially since adjacent land ownership patterns have only recently been set and land managers want the opportunity to adequately assess their resources. We therefore recommend that the Moderate Management designations of the new Alternative C be adopted in the final CCP to allow for exploration activities while preserving the five-year reevaluation for future leasing as noted in Alternative B.

Wilderness -- The Process

All of the 135,000 acres of Moderate Management and a majority of the 292,000 acres of Minimal Management are now proposed for wilderness designation. The State has two distinct concerns regarding the wilderness recommendations. Our first concern is that agencies and the public were not afforded the opportunity to comment on specific wilderness recommendations in the draft plan. The draft CCP only addressed wilderness suitability, while this final plan goes further to recommend wilderness designations. There is a significant difference in public involvement between identifying areas that qualify vs. submitting recommendations for designation. This disparity was also noted in public comments on the draft plan. For example, page 3 of the comments from the National Audubon Society (see page 177 in the CCP) states:

Section 1317 of ANILCA required that a thorough "Wilderness Review" be completed on all refuge lands not designated as wilderness to determine their suitability or unsuitability for preservation as wilderness. Why then was the Wilderness Review not included in the draft CCP as indicated? It is essential that the public be provided with this material for each management alternative complete with sets of wilderness maps.

We also note the entire procedure followed in the Becharof NWR plan for proposing wilderness appears to be inconsistent with 3-12-85 directives from FWS Director Jantzen:

"We therefore concur with the regional recommendation to include specific wilderness proposals in all future draft CCPs released for public review."

We support the incorporation of public review of wilderness recommendations in draft CCP's, however it is highly inappropriate to belatedly initiate this "review" during the public protest period on the final plan. We therefore recommend that a range of alternatives regarding proposed recommendations for wilderness designation for Becharof NWR be submitted for public review and comment under separate cover. This procedure would be similar to the approach used by the National Park Service (NPS) since all of their general management plans limit their proposals to wilderness suitability determinations. Specific NPS wilderness recommendations are expected to be handled at a later date under separate cover.

Wilderness -- The Recommendations

Beyond the State's general concern about the public review process for wilderness, we have a second specific concern about the wilderness recommendations themselves. The Bristol Bay Cooperative Management Plan as well as the final federal Regional Plan endorse wilderness designation in the Island Arm and Mount Peulik areas as a logical extension of the existing wilderness area. No other wilderness designations were endorsed. The State therefore supports the proposed wilderness designation in this area as appropriate and in concert with past public review processes.

However, we cannot support additional wilderness in the Big Creek drainage and upper King Salmon River at this time. We object to any additional access restrictions which may curtail existing recreational activities and traditional subsistence uses from King Salmon and the Naknek River residents. In the State's July 16, 1984 comments on the draft, we specifically requested that this area be placed in the Minimal Management category to protect its important fishery and wildlife values. We do not feel that the plan has adequately justified designation of this area as wilderness when the Minimal Management classification would adequately protect the resources.

It appears that this wilderness designation is recommended to legislatively preclude any future opportunities for oil and gas exploration or leasing. We recognize that this area has little potential for oil and gas development, however we wish to ensure that traditional uses and future options to conduct seismic exploration are not precluded. We therefore cannot support this additional wilderness recommendation at this time. We further request that when the oil and gas provisions of this CCP are reviewed in five years that FWS consider the merits of allowing seismic exploration in this area. Carefully conducted exploration activities should not adversely affect fish and wildlife resources or scenic values.

Access

The FWS intent regarding pursuit of additional restrictions on access and traditional recreational and subsistence activities is unclear. Related discussions are inconsistent when various sections of the plan are compared. Depending on that intent, the impacts on the social and economic environment may be substantial while there may be little detectable differences between the alternatives in terms of impacts on the natural environment.

In particular it is difficult to determine what access is permitted under the different land management classifications, especially because of the discrepancies between Tables 18 (page 71) and 19 (page 78) of the final Becharof NWR plan. For example, Table 18 indicates that the use of "other motorized vehicles" is not permitted in either Minimal or Wilderness Management areas. Further, there is no mention of other motorized vehicles in the description of the Minimal Management category on page 71. Table 19, however, indicates that, if traditional, they are permitted in Minimal Management areas. We assume their use is not permitted in Wilderness Management areas because it is implied in the description of Wilderness Management on page 71, states as such on Table 18, and is delineated as "non applicable" on Table 19. Under Intensive and Moderate Management classifications the use of "other motorized vehicles" is permitted subject to use stipulations (page 78). This is only one topic used as a very specific example of inconsistencies that occur throughout the plan. Changes in land management classifications discussed previously, especially the proposed wilderness, may subsequently severely impact traditional access on the refuge.

In summary, the final Becharof NWR plan contains serious inconsistencies between sections regarding allowances for access and traditional uses. We cannot endorse the plan until these are rectified and the continuation of traditional uses is reasonably assured.

Recreation

On page 87, the statement is made that "non-wildlife oriented recreation will generally not be permitted." Considering the location and purposes of the refuge, we question the need for outright prohibitions of recreational activities. Even though qualifying statements have been made concerning permitted recreational uses, the plan as written leaves considerable room for interpretation about what is meant by "non-wildlife oriented recreation". If specific prohibitions are contemplated under this clause, then these should be specified. If the intent is rather to manage the refuge to encourage "wildlife-oriented" uses, then this should be more clearly stated. Amateur archeology, recreational "rock hounding" and swimming are examples of non-wildlife oriented uses that could be precluded by the above statement.

Land Status

We are concerned that the maps of the alternatives indicate refuge status on all lands within the exterior boundary of the refuge. In particular the maps do not acknowledge conveyed and selected Native corporation lands in the refuge along the northern boundary. We recognize that land status is changing in this region and that maintaining current status maps is challenging. However, the alternative maps should reflect the best information available on tracts of mappable size at the time of publication. In addition we suggest that the maps in future CCP's contain a statement in the legend such as "Management categories and associated guidelines only apply to federal lands." For the Becharof CCP, we suggest that the Record of Decision correct the implication that the conveyed Native lands are part of the refuge.

Fish and Wildlife Management Techniques

Table 18 and 19 contain numerous inconsistencies regarding management techniques which are also reflected elsewhere in the text. For example, Wildlife Stocking, Predator Control, Pest Control, and Disease Prevention are "not permitted" according to Table 18. They are variously described as "may be permitted" or "will not normally occur" on Table 19. Discussions elsewhere in the text related to these subjects are variously described. We suggest that FWS clarify their intent regarding these topics by referring to Master Memorandum of Understanding between the Alaska Department of Fish and Game (ADF&G) and FWS. Options to use the best fisheries and wildlife management techniques should remain available to both agencies.

Fisheries Enhancement

We appreciate the FWS revision of intent regarding fisheries enhancement activities on the refuge. We are concerned, however, that the restrictions limiting "special situations" remain unclear. ADF&G is encouraged by recent understandings reached with FWS regarding fisheries enhancement activities but is interested in resolving remaining differences in definitions. To make the plan consistent with recent mutual understandings, we request FWS refer to fisheries enhancement and rehabilitation activities as "fisheries improvement activities" with management intent described as "may be permitted in special situations through cooperative agreements." This alleviates the the need to make arbitrary distinctions between improvement techniques used for enhancement and those for rehabilitation. It also assures that ADF&G and FWS can involve the NEPA and associated public review processes as appropriate.

Subsistence

Page 54, Subsistence, needs to be corrected by insertion of the word "not" as follows: "For purposes of resource allocations, the Alaska Board of Game has not found it necessary to make a distinction between subsistence and recreational hunting by local residents"

Cabins and Support Facilities

We remain opposed to prohibitions in the final plan of onshore facilities used to support commercial fishing activities. We also support the continued use of existing cabins for traditional and recreational purposes. Congress provided for use of such facilities in ANILCA, particularly through Sections 304(d) and 1303(b). Given that the refuge has considerable use for subsistence and recreational hunting, among other uses, we request FWS consider an accommodating cabin policy. We also recommend that a cooperative assessment be conducted to determine historical use, if any, of onshore commercial fishing support facilities prior to 1979. ADF&G knows of no current useage now, but past use has not been determined. Until this information is gathered we request deletion of the prohibition on such support facilities.

RS 2477 Rights-of-Way

After considerable review and deliberation, State agencies are proposing the following language concerning possible Revised Statute (RS) 2477 rights-of-way within the refuge. We request that this language replace the existing language on pages 83-84 of the final plan:

"The Becharof National Wildlife Refuge is subject to valid existing rights, including rights-of-way established under RS 2477 (43 U.S.C. 932). The State may identify and assert RS 2477 rights-of-way within the refuge.

"The State has the authority to manage public rights-of-way and may do so cooperatively with the underlying fee landowner. The landowner may petition the State to disclaim an interest in or vacate any RS 2477 right-of-way and/or may enter into a cooperative management agreement with the State."

17(b) Easements, Non-Exclusive Use Easements and Native Allotments

The issues outlined below affect more than just this refuge. They affect all planning areas under the jurisdiction of the Department of the Interior. For this reason, DNR feels that the following concerns need to be addressed at a department-wide level.

The Comprehensive Conservation Plan for Becharof does not address the management of 17(b) easements. The plan does not include a list of 17(b) easements or any discussion about what restrictions, if any, the FWS intends for 17(b) easements. The FWS is required by law to have this information available and to give proper notice before any modifications are made to the specified uses of the original reservation. The CCP's should therefore include a list of 17(b) easements and specifically state the types of uses currently allowed and any proposals for modifications to these uses. Also, separate maps should be made available to assist the public in finding the easements in the field.

The plan should also indicate the FWS policy on the use of non-exclusive use easements. The use of non-exclusive use easements is established in the Regional Solicitor's Opinion dated December 22, 1983 (attached). Non-exclusive use easements may be reserved by BLM across Native allotments when trails or areas of prior established public use overlap an allotment application.

In addition to the lack of policy direction on these two issues, the CCP does not address how conflicts will be resolved when areas of high public use coincide with private inholdings. The plans do not identify on maps or in the text the private inholdings such as Native allotments and settlements claims in the refuge. Ideally, the FWS should list these areas and identify which of them potentially conflict with public use. The plan should then state how such conflicts will be addressed. For example, the plan should state how public use areas will be protected or if the public use cannot be protected, how it will be redirected off of private land. The potential use of non-exclusive use easements should be included in this discussion.

The department realizes that it may not be feasible to address the details of specific easements and allotments as a part of the Becharof CCP Record of Decision and that FWS intends to address these issues later during the development of a land protection plan. However, we feel that the CCP should, at a minimum, acknowledge that 17(b) easements and Native allotments are significant management concerns and give some overall interim policy guidance for how these issues will be addressed.

Furthermore, the final plan should outline in greater detail how and when a land protection plan will be developed, and list the issues the plan will address. A few of the topics that should be included are 17(b) easements, RS 2477 rights-of-way, tide and submerged lands, navigable waters, non-exclusive use easements, and Native allotments.

Ideally, the State would like to have changes made in the text and on the maps in the actual document to address the concerns outlined above. We realize, though, that the Becharof CCP is currently in the last stage of review and that such specific comments and additions to the maps and text are being offered late in the process. In future FWS plans that we review, we will make specific recommendations for such inclusions into the documents at the draft stage. At this time, though, we are only recommending general language for incorporation in the Becharof Record of Decision. Consequently, we request inclusion of the following language which acknowledges our concerns:

The Becharof National Wildlife Comprehensive Conservation Plan does not provide policy guidance for the management of 17(b) easements, the use of non-exclusive use easements, or the resolution of conflicts with Native allotments when the allotment conflicts with public use values. The FWS will develop policies to address these management concerns prior to developing a land protection plan or taking other specific actions affecting use of 17(b) easements or areas where public use areas conflict with private inholdings. The State of Alaska and other interested parties will be involved in the development of these policies.

In addition to including the above paragraph, we request that the Record of Decision outline the process for development of the land protection plan that will be prepared as a follow-up to the CCP. We request that the description of this plan include mention of the issues identified above.

Tide and Submerged Lands

The plan does not adequately acknowledge that the State has management authority on tide and submerged lands (pages 68 and 72). The following paragraph should be included in the Record of Decision to address this concern:

All tide and submerged lands within the refuge are under the jurisdiction of the State of Alaska. The FWS may submit proposals for the management of these lands to the appropriate State agency.

Once specific applications or management proposals have been made, such requests will be considered by the State.


Miscellaneous

A review of the FWS's responses to the State's letter indicates an attempt to address most of our specific correction requests. We are appreciative of these efforts, however we also note that numerous intended corrections are not reflected in the text; i.e., comment numbers 25, 31, and 47. We are concerned about the potential ramifications.

We have a final observation about the CCP revision process between the draft and the final. Our comments on draft CCP's only address items of concern to State agencies. In the interests of time, we generally do not comment on portions of the plans we specifically support. Consequently, if all of our comments are addressed in the final CCP reviewers tend to assume that the acceptable. For Becharof this inaccurate assumption catalyzed confusion and frustration among State agency reviewers, FWS, and members of the Alaska Land Use Council. As a result, we have been contemplating some suggestions intended to streamline the State's review and improve timely feedback to FWS. We will be in touch with you or your staff on our thoughts.

Thank you for the opportunity to comment on this proposed final CCP for Becharof NWR. We look forward to a Record of Decision that adequately addresses these concerns. If we can be of assistance in clarifying our comments please feel free to call.

Sincerely,



Sally Gibert
State CSU Coordinator

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