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October 21, 1988

Mr. Walter Stieglitz
Regional Director
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, AK 99503

Dear Mr. *Walt* Stieglitz:

The State of Alaska has reviewed the U.S. Fish and Wildlife Service (FWS) final Comprehensive Conservation Plan (CCP) for the Alaska Maritime National Wildlife Refuge. The following letter is submitted on behalf of state agencies and represents a consolidation of state concerns and comments.

Even though the state does not fully support all aspects of the Alaska Maritime CCP, we nonetheless wish to commend the FWS for an overall excellent job. Most of the concerns and suggestions the state has raised over the course of preparation of the CCP have been satisfactorily addressed. The planning team, led by Leslie Kerr, was very helpful and responsive at all stages of the planning process. Since the refuge is scattered along the coastline across the state, the FWS successfully accomplished the difficult task of seeking out and addressing numerous site-specific concerns.

Disputed Off-shore Tide and Submerged Lands

The state appreciates that the CCP continues to recognize that the state asserts ownership of certain off-shore areas also claimed by the FWS. The state, however, is concerned that the FWS is proposing management strategies for areas we believe are state-owned. The state cannot support FWS management proposals for watercolumns, tide and submerged lands where the state claims jurisdiction, including:

- ° watercolumn and tidelands surrounding Simeonoff Island,
- ° tide and submerged lands surrounding the Semidi Island group,
- ° watercolumn, tide and submerged lands in the Karluk area from Wolcott Reef to Sturgeon Lagoon,

- ° watercolumn, tide and submerged lands at Womens Bay,
- ° watercolumn, tide and submerged lands surrounding Afognak Island.

The state recognizes that disagreements over the ownership of these areas may ultimately require resolution in federal court. In the meantime, the state cannot support federal management directions for any lands or waters claimed by the state.

Wilderness Recommendation

As noted in the state's comments on the draft CCP, dated May 20, 1988, the northwest portion of Atka Island has recently been found to have high geothermal potential. In fact, the area has been described as "probably some of the best hydrothermal resources in Alaska."¹ These resources cannot be developed if Atka Island remains part of the Alaska Maritime Refuge. The state therefore believes the area should be considered for inclusion in a future land exchange. Such an exchange would likely be more difficult, however, if this area were designated Wilderness. For this reason, the state reiterates its request that this area be removed from the Wilderness Recommendation in the Record of Decision (ROD).

Mariculture

In our comments on the draft CCP, the state sought greater flexibility regarding the possibility of allowing future mariculture activities on the refuge. In summary, we requested that: 1) future FWS compatibility criteria be consistent with state permitting criteria to the maximum extent possible; 2) coastal lands adjacent to state-owned submerged lands in protected bays and harbors on Unalaska Island be classified Moderate Management; and 3) the final CCP should contain general intent language indicating that the FWS will approve, through the CCP revision process, upland mariculture support facilities unless they would be detrimental to the refuge's fish and wild-life resources.

In the FWS' response to the first point above (page IX-52), the FWS notes that a mariculture step-down plan for the Afognak Island area will be prepared. The state understands that this

¹Reeder, J.W., Hydrothermal Manifestations of the Northern Part of Atka Island of the Aleutian Arc, and their Geologic and Tectonic Setting, Abstracts and Time Schedule for IAVCEI 1985 Scientific Assembly.

plan will be the principal vehicle for FWS efforts to develop mariculture permitting criteria in cooperation with the state. The FWS' response further indicates that "Any criteria for evaluating mariculture proposals will be consistent with state guidelines to the maximum extent possible, when such guidelines become available." The state appreciates this substantive response. We request that this information be included in the ROD since the CCP itself was not revised to include this intent, and most readers do not refer to the response to comments for such direction.

At this point, it would be helpful to clarify that, while the legislature has not yet authorized fin fish mariculture, other forms of mariculture (e.g. shellfish and sea vegetables) have been authorized. Further, in response to new statutory direction, CSSB 514, state agencies are currently revising an inter-agency permit review process for evaluating non-fin fish aquatic farm sites on state-owned lands and waters. Therefore, cooperative discussions of non-fin fish mariculture need not wait for additional state legislation.

The state also recommends that the FWS explore the possibility of developing a cooperative interagency task force to address mariculture. Such a task force could address topics such as compatibility criteria and the complex jurisdictional issues regarding fish and wildlife management as well as management of disputed lands.

Regarding the state's request to reclassify portions of Unalaska Island to Moderate Management, we note that the CCP continues to propose a Minimal Management classification. Under Minimal Management, mariculture activities are not allowed, thus any proposals for mariculture activities would need to be viewed in the context of a CCP revision, as the FWS response to comments indicates. Since we are unaware of specific proposed mariculture activities at Unalaska Island for the immediate future, we recognize the FWS' preference to maintain a Minimal Management classification at this time. However, the state can only support this decision if the ROD contains some additional direction regarding the intent of the CCP revision process as it relates to mariculture, as noted in our third point above. Specifically, the state requests that the following language be included in the ROD. If the ROD contains this, or similar, language, the state will be satisfied with the FWS' overall direction regarding mariculture; while the FWS maintains its discretion to evaluate specific mariculture proposals.

"The State of Alaska has requested that the Service remain flexible with regard to a long-term mariculture policy, and that Service permitting criteria be compatible with state criteria. The Service's refugewide criteria for evaluating

all mariculture proposals will be consistent with state guidelines to the maximum extent possible.

"On a site-specific basis, the Service will provide comments to the state as it evaluates whether to authorize use of tidelands adjacent to refuge lands for a specific mariculture project. The Service and the state will work cooperatively so that uses of upland refuge lands and adjacent state tidelands are compatible to the maximum extent possible subject to refuge purposes and applicable state laws. To supplement these efforts, the Service is interested in the development of a cooperative interagency task force with state agencies to address mariculture issues of mutual state/federal concern.

"If needed to support a viable mariculture project proposed on state tidelands adjacent to the refuge, a CCP amendment or revision process will be initiated to consider reclassification of Minimal Management areas to allow upland support facilities associated with the project. Through this revision process, the Service will reclassify the subject lands to either Moderate or Intensive Management that provide for upland support facilities for mariculture projects, with appropriate stipulations, unless biological factors indicate that the activity would be detrimental to fish and wildlife resources. The Service acknowledges that mariculture is compatible with other uses of refuge resources as long as there is no significant impact to fish and wildlife resources."

Commercial Fishing

Regarding upland areas where the FWS has undisputed management authority, the state requests that the ROD clarify some apparently contradictory statements in the CCP relating to commercial fishing. For example, page I-26 states "Shore-based facilities in support of commercial fishing would not be permitted in designated wilderness." Yet the management table (page III-11) states that commercial fishing in Wilderness "May be permitted subject to reasonable regulation in accordance with provisions of the Alaska National Interest Lands Conservation Act (ANILCA)." We further note that the preceding sentence on page I-26 asserts that there would be no significant impact of wilderness designation on such facilities. The prohibition is inconsistent with policy developed for other CCPs (see Kodiak Final CCP), and ANILCA Section 304(d), which states that the Secretary "shall permit . . . the exercise of valid commercial fishing rights or privileges . . ." Therefore, the state requests that the ROD affirm that commercial fishing activities and associated support facilities will be allowed in designated wilderness areas consistent with the provisions of ANILCA.

In addition, the CCP continues to state that commercial fishing will be managed consistent with a memorandum of understanding (MOU) to be developed with appropriate state agencies (page I-25), even though the FWS response to the state's comments indicates that an existing MOU between the FWS and the Department of Fish and Game (DFG) is adequate. If the latter statement is correct, we request that the ROD confirm that a new MOU will not be needed for management of commercial fishing.

Finally, page III-26 states that "the Service recognizes that fisheries' levels are cyclic and will take that into consideration when applying the '1979 level' criteria." The state requests that the ROD affirm that determination of the 1979 level will be a cooperative effort between the DFG and the FWS, consistent with previous agreements.

Population Levels

In the state's comments on the draft CCP, we requested the FWS delete language on page III-16 specifying that fish and wildlife populations would be managed so that they "do not decline unnaturally below the levels that existed on December 2, 1980." Neither the FWS nor DFG should be bound to an artificial population goal, and ANILCA itself does not specify that management should be based upon any single year (1980) population level. We therefore request that the Alaska Maritime ROD substitute the reference to 1980 population levels and with following alternative policy:

It is the intent of the Service to ensure that wildlife populations and habitats are conserved to maintain their natural diversity as mandated by ANILCA.

Fire Management

Pages III-26 and III-73 state that "there will be no prescribed burning." This is inconsistent with FWS policy in regard to all other refuges; is inconsistent with interagency Regional Fire Management Plans; and contradicts the FWS' own management table on page III-5, which states that "prescribed burning will be used for hazardous fuel reduction or restoration of natural vegetation patterns" for all land management categories. We therefore request that the ROD affirm that fire management policies as contained in the management table will be applied.

Designated Areas for Off-Road Vehicles (ORVs)

The FWS states on page III-20 that "use of ORVs will be limited to designated areas of traditional use," and then designates four such areas for the entire Alaska Maritime Refuge. The text states that future identification of such areas would result in

further designated areas. DFG staff are aware of other areas (e.g., Safety Sound) where traditional and subsistence use of ORVs have occurred prior to and since passage of ANILCA. DFG encourages, and would be happy to participate in, systematic studies of the Alaska Maritime Refuge to determine where such traditional areas or routes are located.

Mechanized Equipment

The state continues to assert that the FWS has the discretion to allow limited use of motors (e.g. chainsaws and generators) on uplands within wilderness areas, if such use was established prior to designation of the area. This position is consistent with a unanimous Alaska Land Use Council resolution (November 24, 1987).

The CCP also incorrectly maintains that the areas involved are not wooded, therefore, no impact to users will result from a prohibition on the use of chainsaws and generators. This is not the case in much of the Alaska Maritime Refuge where people cut beach drift for firewood, setnet poles, and temporary shelters, among other uses. The use of chainsaws is common for these tasks and is often necessary when such collecting is being conducted in storm drift lines on federal lands above mean high water. We again urge that the final ROD recognize the Director's discretion to allow limited use of chainsaws and generators within Wilderness areas.

Purposes of the Refuge and Common Management Directions

In future revisions of this CCP, we reiterate our request that the FWS describe the purposes of the refuge using language from ANILCA. Specifically, on pages xiii and I-3, the phrase "following major" should be deleted and the word "include" be substituted at the end of the sentence that references the purposes of the refuge. Also, the summary of common management directions for all alternatives on page xv omits two items which are included under each alternative in the text and which should be addressed here: 1) maintaining opportunities for trapping, and 2) permitting the use of "other motorized surface transportation" for subsistence activities. These should have been included in paragraphs 2 and 5, respectively, in the righthand column.

Alaska Coastal Management Program

The state has completed its review of the final Alaska Maritime CCP in light of the standards of the Alaska Coastal Management Program (ACMP), including applicable district programs. Based on this review, the state concurs with the FWS that the CCP is consistent, to the maximum extent practicable, with the ACMP. For future revisions, Appendix H should note that the Bristol Bay

Coastal Resource Service Area (CRSA) is one of the coastal districts with a federally approved coastal management plan.


Togiak Herring Fishery

For future reference, the Bristol Bay CRSA would like to make the FWS aware of potential resource problems associated with the growing Togiak herring fishery in and near Hagemeister Strait. The Togiak fishery is the largest herring fishery in the state, generally occurring around April and May. During the 1988 season, there were 20 floating processors and a fleet of 239 seiners and 300 gillnetters totalling several thousand fishermen and processing workers. A primary anchorage point for the processors is near Hagemeister Island, while the west side of the island is occasionally used as a staging area to cache fuel and for aircraft landings. Likewise, the bulk of the seine fleet is often concentrated in the Hagemeister section of the fishing district. Due to the difficulty of predicting the timing of the herring fishery, fishermen may be on the grounds weeks before and after an opening. As a result, present and potential problems exist: from disturbance to wildlife and archaeological resources by fishermen during fishing closures, to the disposal of waste generated by processors and fishing boats into marine waters. The Bristol Bay Cooperative Management Plan identified the Togiak fishing grounds as a suggested "area meriting special attention" for these reasons. The Bristol Bay CRSA therefore recommends this area be considered for future cooperative planning and monitoring purposes by the FWS and applicable state agencies.

Thank you for the opportunity to comment on the final CCP for the Alaska Maritime National Wildlife Refuge. If we can be of assistance in clarifying these comments, please do not hesitate to call this office. We look forward to a Record of Decision which substantially addresses the state's concerns.

Sincerely,

Robert L. Grogan
Director



By Sally Gibert
State CSU Coordinator

cc: Commissioner Judith Brady, DNR
Commissioner Don Collinsworth, DFG
Commissioner Dennis Kelso, DEC
Commissioner Mark Hickey, DOT/PF
Acting Commissioner Larry Mercurieff, DCED

Mr. Walter Stieglitz

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