

# STATE OF ALASKA

**OFFICE OF THE GOVERNOR**

DIVISION OF GOVERNMENTAL COORDINATION

WALTER J. HICKEL, GOVERNOR

State CSU Coordinator  
3601 C. Street, Suite  
370  
Anchorage, AK 99503

May 9, 1991

Refuges 2003 Planning Team  
U.S. Department of the Interior  
Fish and Wildlife Service  
Mail Stop - 670 ARLSQ  
1849 'C' Street, N.W.  
Washington, DC 20240

Dear Planning Team Members:

The State of Alaska has reviewed the March 1991 Workbook which addresses Refuge Management Options for the Refuges 2003 Plan. This letter represents the consolidated comments of the State's resource agencies.

## ANILCA CONTEXT MISSING

While this plan is clearly nationwide in scope, the State is nonetheless surprised and disappointed that the Workbook does not explain or address the specific legal authorities affecting national wildlife refuges in Alaska.

Congress passed the Alaska National Interest Lands Conservation Act (ANILCA) in 1980 which created new or expanded units and provided operational guidelines for Alaska refuges. Specific provisions of ANILCA authorized traditional access and transportation methods, subsistence and other consumptive uses of fish and wildlife and other natural resources and many forms of economic development and activity on refuges. In many cases, ANILCA permits uses and activities in Alaska refuges that are not allowed in refuges in the other states. Congress included these provisions to minimize impacts on Alaskan lifestyles and to provide economic development opportunities in light of the vastness of the Alaska refuges and the relatively undeveloped nature of the state. Most of the very specific ANILCA provisions supersede the more general laws and regulations governing the operation of refuges elsewhere.

Several of the management options listed in the Workbook clearly violate the statutory provisions and Congressional intent of ANILCA and approved refuge plans. Examples of a few of these include: making biological diversity the overarching goal of the National Wildlife Refuge System (issue 2), eliminate all non-wildlife and wildland uses on refuges (issue 3), reduce, "cap" or prohibit

May 9, 1991

economic uses on refuges (issue 5), eliminate all fisheries management programs on refuges (issue 7), prohibit the killing of wildlife for sport, recreational, or commercial purposes and/or eliminate all hunting, trapping, and fishing on refuges (issue 9), allow trapping on refuges for management purposes only (issue 9), and close refuges to all recreational uses and/or phase out all non-wildlife/wildland recreational uses (issue 14).

The Refuges 2003 process must address the fact that Congress created Alaska refuges with different management direction from those in the remaining states. Since Alaska contains approximately 77.5 million acres of national wildlife refuge land in Alaska (nearly 85% of the entire national system by area), these important distinctions must be acknowledged.

There are several ways that the Service could address these critical Alaska concerns. The first option is to simply exclude Alaska from the current planning process. This option is more logical than it may initially appear. All of the Alaska refuges have recently completed ANILCA - mandated comprehensive conservation plans. These plans have undergone extensive public review (including national) and have been developed in conformance with National Environmental Policy Act guidelines. Each Alaska refuge is currently preparing step-down plans that address specific management issues (fishery management, public use management, river management). Consequently, the Alaska region is, or has just finished, looking at virtually every applicable issue raised in the Workbook in the context of appropriate national mandates, ANILCA direction, and refuge-specific needs. While the State does not agree with all the provisions of these plans, we concur that they adequately address the range of management issues affecting Alaska refuges. Hence the current exercise could result in an unnecessary step backward for Alaska.

Another possible course, though more cumbersome, is to assess each issue and management option independently and identify those that are not appropriate for Alaska refuges along with supporting justification, e.g. ANILCA. This was done to some extent in the November 1988 draft environmental impact statement, which led to our surprise that this Workbook does not provide this same information.

Armed with knowledge of the unique provisions of ANILCA, it would then be possible to select a nationwide option that is consistent with Congressional direction for Alaska; or dual options could be selected, one for Alaska and one for everywhere else.

ISSUES NOT ADDRESSED

Subsistence

If ANILCA and Alaska refuges are addressed in this planning process (as opposed to severing them from further consideration), then it is essential that subsistence use be addressed. ANILCA provides that subsistence use is a priority consumptive use of fish, wildlife and other natural resources on Alaska refuges. Furthermore, to the extent that other management issues potentially affect subsistence, then the impacts on subsistence use and users should be addressed in the context of each.

State Land and Water Jurisdiction

The Workbook currently does not address the ramifications of State ownership of lands and waters within Alaska refuges. The State of Alaska owns the lands under many of the rivers in Alaska refuges and all tidal areas adjacent to these refuges. The Submerged Lands Act of 1953, the Alaska Statehood Act of 1958, and the Alaska State Constitution established State ownership of shorelands (the beds of navigable rivers), tidelands (lands subject to tidal influence), and submerged lands (lands seaward to 3 miles from shore).

The acts identified above and the State Constitution also give the State ownership and management authority over all waters in the state, regardless of navigability status.

The Service and the State have agreed to work cooperatively to ensure that existing and future activities occurring on these lands and waters are compatible with the purposes for which the Refuge was established and the purposes for which the State was given ownership of tidelands, submerged lands, shorelands and water columns.

What applies to federal lands does not necessarily apply to State lands and vice versa. There are numerous laws, regulations, and policies already in place that set the framework for management of federal and State lands and water within refuges. Management objectives of the State are derived from Section 14, Title VIII, of the Alaska State Constitution which says: "Free access to the navigable or public waters of the state...shall not be denied any citizen of the United States or residents of the State."

Each of the issues in the Workbook should be assessed in the context of the State's management authorities.

May 9, 1991

### Cultural Resources

The Workbook does not include discussion of cultural resources. Protection of cultural resources should be addressed in subsequent documents. The first step in management of cultural resources is inventory. We suspect that hundreds, perhaps thousands, of presently undiscovered sites in Alaska are being damaged or totally destroyed by vandalism and coastal and riverine erosion. However, very little action is currently being taken to begin to address this situation. Given the vast refuge acreage in Alaska, it is tragic that only one full-time archaeologist is employed to manage the thousands of known sites in the refuge system. Further, much of the refuge system is unsurveyed, and we confidently predict that thousands more sites remain to be discovered.

We strongly recommend that the plan include an element to establish a long-term, systematic program for cultural resource inventory of Alaska refuges. The program should include a baseline overview and assessment of what is known for each refuge, establishment of a preservation plan which evaluates known resources, establishes priorities for lands most needing inventory, prioritizes evaluation and nomination of significant sites and districts to the National Register of Historic Places and, of course, provides adequate staffing/funding levels to make the program actually happen.

Presently, the Service's compliance with Sections 106 and 110 of the National Historic Preservation Act is sporadic and irregular at best. We feel that it is imperative for the Service to begin long-term planning to improve its cultural resource management.

### PUBLIC INVOLVEMENT

As previously noted, refuges in Alaska comprise nearly 85 percent of the total acreage in the national wildlife refuge system. Furthermore, there are approximately 70 rural Alaskan communities located within or immediately adjacent to refuge boundaries. Refuge 2003 public meetings this spring in Alaska occurred in only three urban communities (Anchorage, Fairbanks, and Soldotna). If Alaska refuges are going to be affected by the provisions of the Refuges 2003 Plan, then subsequent public meetings must be scheduled in those additional rural communities directly affected by the proposed action.

May 9, 1991

### WORKBOOK ISSUES

The following comments should be considered only if Alaska refuges continue to be addressed alongside other refuges nationwide. The comments below are not comprehensive, but represent examples of the approach that will be needed to make sure ANILCA's Congressional mandates are protected.

#### Issue 1. Overall Administration

Consistent with our initial comments concerning lack of recognition of ANILCA, it is essential that the Service maintain flexibility for management of Alaska refuges. Consequently the State recommends the "loose network" approach. ANILCA already provides Alaska refuges with the type of comprehensive policy direction that is apparently perceived by some to be missing for the system as a whole.

If national sentiments favor a more centralized approach, then it will be critical to identify those issues where management of Alaska refuges must differ from refuges elsewhere. Regardless of the outcome, the Service should provide ample flexibility for various cooperative management approaches with the State and private landowners.

#### Issue 2. Protection of Biological Diversity

Although there is no question that biological or natural diversity of refuge natural resources is an important requirement, ANILCA does not recognize this to be the dominant (overarching) purpose for refuges in Alaska. Consequently the State would be opposed to application of management option #1 in Alaska.

#### Issue 3. The Compatibility Process

Based on the State's participation in comprehensive conservation plans for Alaska refuges we believe the compatibility process has the potential to protect refuge resources while giving the refuge manager needed decision-making flexibility. We have one important recommendation for improving the process that is not yet listed in the management options. The Service should work cooperatively with the State to develop compatibility criteria in advance of the decision with public input. Such criteria will make the compatibility process more accountable and reduce the potential for arbitrary decisions by refuge managers.

May 9, 1991

Issue 7. Enhancement of Fisheries Programs

Any efforts to address this issue must recognize the State's management authorities over water resources and the fisheries. In Alaska, the Service and the State have an excellent cooperative working relationship regarding fisheries management. Fish enhancement has been an active and integral part of the State's resource policies for many years and must be treated in a context that goes beyond arbitrary jurisdictional land boundaries.

Issue 9. Hunting, Trapping and Fishing on Refuges

Regardless of what options are selected for other refuges, opportunities for consumptive use of fish, wildlife and plant resources must be maintained in Alaska as directed by Congress. ANILCA explicitly allows subsistence, sport and commercial opportunities. Non-consumptive programs are indeed a priority in Alaska, in harmony with rather than to the exclusion of traditional consumptive uses. Any modification or restriction of consumptive uses in Alaska would be inconsistent with the provisions of ANILCA and would cause local food shortages, cultural disruptions, and widespread economic hardships.

Issue 10. Land Acquisition Needs and Priorities

The discussion of the "Current Situation" notes that acquisition is only initiated when other tools, such as regulation, are not effective. Subsequent planning documents should also recognize the value of cooperative agreements. Such agreements can be cost effective, foster good working relationships with adjacent landowners, and avoid the need for more heavy-handed options.

Issue 14. Recreational Activities on Refuges

The first three management options which restrict or eliminate recreational uses on refuges are clearly inconsistent with ANILCA and the State of Alaska Constitution. ANILCA contains numerous specific provisions which provide a balance between recreation use and protection of refuge resources. For example, camping and motor boat use are often integral to Congressionally-allowed "wildlife related" activities such as hunting, fishing, trapping and viewing.

Issue 15. Special Management Designations

The State of Alaska reviews any proposals for new designations separately and on their own merits. The State, however, generally opposes new designations such as Wilderness, which further restrict public use and economic development opportunities.

May 9, 1991

Issue 17. Water Issues

The State and Service in Alaska have agreed in concept on an approach to the reservation of refuge water rights and maintenance of water quality. Unlike many areas in other States, Alaska has few competing uses (e.g. agriculture), and very little quantitative water data. The State encourages the continued evolution of a cooperative approach to water issues in Alaska, including application for federal reserve water rights.

Thank you for your consideration of these comments. If you have any questions, please feel free to call me at 465-3562 or Sally Gibert at 561-6133.

Sincerely,

*Sally Gibert*  
for

Dr. Paul C. Rusanowski, Ph.D.  
Director

cc: Commissioner Carl Rosier, Dept. of Fish and Game  
Commissioner Harold Heinze, Dept. of Natural Resources  
Commissioner John Sandor, Dept. of Environmental  
Conservation  
Commissioner Frank Turpin, Dept. of Transportation and  
Public Facilities

**REFUGES 2003 PLAN  
DISTRIBUTION LIST**

**May 9, 1991**

Al Carson, Department of Fish and Game, Anchorage  
Ron Regnart, Department of Fish and Game, Anchorage  
Priscilla Wohl, Dept. of Environmental Conservation, Anchorage  
Joyce Beelman, Dept. of Environmental Conservation, Fairbanks  
Jenny Olendorf, Dept. of Transportation and Public Fac., Anchorage  
Norm Piispanen, Dept. of Transportation and Public Fac., Fairbanks  
Rob Walkinshaw, Department of Natural Resources, Anchorage  
Steve Jacoby, Div. of Governmental Coordination, Juneau  
Tina Cuning, Department of Fish and Game, Nome  
Terry Haynes, Department of Fish and Game, Fairbanks  
John Katz, Governor's Office, D.C.  
Paul Rusanowski, Div. of Governmental Coordination, Juneau  
Stan Leaphart, Citizen's Advisory Committee on Fed. Lands, Fairbanks  
Gail Baker, Fish and Wildlife Service, Anchorage  
Walter Stieglitz, Fish and Wildlife Service, Anchorage  
Ron McCoy, Alaska Land Use Council, Anchorage  
Mike Mitchell, Alaska State Library, Juneau