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October 16, 1992

Jay Bellinger  
Kodiak Refuge Manager  
U.S. Fish and Wildlife Service  
1011 East Tudor Road  
Anchorage, AK 99503

Dear Mr. Bellinger:

The State of Alaska appreciates the opportunity to review the internal review final of the Kodiak Refuge Public Use Management Plan (PUMP). The State is dismayed that the PUMP does little to address concerns expressed in our May 11, 1990 comments on the draft plan. The State wants to be in a position to support FWS management directions that facilitate public use and protect refuge resources. State agencies, however, do not see enough evidence to warrant support for many proposed public use restrictions. Furthermore, the FWS does not have authority to extend its management to state-owned waterways. Since the FWS has not acknowledged or addressed a majority of concerns previously raised, we see little purpose in reiterating another set of detailed, page-specific comments. Our previous comments on the draft PUMP still stand.

State agencies should have been involved in the preparation of this plan, especially the Department of Fish and Game (DFG) as the wildlife manager, and the Department of Natural Resources (DNR) as the waterways manager. Had this occurred, cooperative implementation of appropriate public use restrictions may have been possible. Without such a partnership approach, however, state agencies must rely on the information and rationale in the PUMP document; which in our view is insufficient to justify the full spectrum of public use closures.

The State acknowledges that the FWS has provided periodic opportunities for selected DFG staff to participate in discussions of specific points during development of this plan. While selected consultation may be valuable, it cannot equate to full DFG or State participation. Many outstanding issues in this plan involve a variety of DFG responsibilities for management of fish and wildlife and the public's ability to use and enjoy these resources. It is possible to pursue a cooperative approach to establish management directions consistent

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with state and federal mandates without knowing how jurisdictional disputes will be resolved. Before proceeding with the final plan and implementing the federal regulations, the State strongly urges the FWS to open a dialogue with state agencies to seek such common ground. For truly compelling resource needs, the State has the ability and desire to work with the FWS to design and implement a program to manage public use and protect Kodiak Island's bear population, which may include public use restrictions, where necessary.

The remainder of this letter addresses concerns regarding ownership and management authorities, public use restrictions, and editorial suggestions unique to this document.

### Shorelands, Tidelands, Submerged Lands and Watercolumns

The State reiterates its commitment to work with the FWS to modify the PUMP to address public concerns that relate to state-owned shorelands, tidelands, submerged lands and watercolumns, and to work together to ensure effective implementation of the plan consistent with Alaska statutes.

It is obvious that this internal review document has not incorporated the State's comments on this topic. Nor has the FWS contacted this office or DNR to discuss issues relating to state ownership and management of navigable waters and watercolumns. In fact, a statement included in the draft PUMP committing the FWS to work with the State on a river management plan for the refuge has been **removed**. This is in stark contrast to the following statement in the Kodiak Comprehensive Conservation Plan (CCP) Record of Decision:

The Service will work cooperatively with the state to ensure that existing and future activities occurring on shorelands, tidelands, and submerged lands are compatible with the purposes for which the refuge was established. In the future, the Service may propose management actions to the state for these areas. [See attached]

The internal review final in no way acknowledges state ownership or even differing views of ownership. Instead, the PUMP repeatedly emphasizes federal ownership of shorelands, tidelands, submerged lands and watercolumns, statements with which the State continues to strongly disagree.

The State wants to know why the FWS is obviously ignoring State comments regarding land and water ownership and management. The State can provide page-specific comments relevant to this review document if FWS is willing to address them.

Maintaining A Healthy Bear Population

The Kodiak refuge, established in 1941 and expanded by the Alaska National Interest Lands Conservation Act (ANILCA), has the responsibility to protect its renowned brown bears as well as maintain traditional public use compatible with refuge resources. Yet the rationale for the public use restrictions embodied in this plan appear to be based on philosophy, rather than realistically balancing resource impacts with the need to maintain public uses, consistent with ANILCA.

In many cases, the closures are proposed based on a desire to minimize the potential for future resource conflicts between humans and bears. The plan also has a tendency to equate temporary bear avoidance of humans with permanent bear displacement. The State does not believe that periodic avoidance of humans amounts to a major impact that must be minimized. Even with the increased public use in recent years, the bear population on the refuge remains high and stable under the careful management of the State.

The State supports the maintenance of a healthy bear population. We also support maintaining and facilitating public uses which are compatible with this goal. For example, the State believes that additional temporary and permanent structures, such as cabins or meat caches, would likely **reduce** defense-of-life-or-property kills by providing better security for public users of the refuge. The PUMP, however, pays little attention to the many traditional public uses and other activities that are consistent with purposes of the refuge. Consequently, this plan sets a serious precedent which we ask the FWS to reconsider. The State urges the FWS to work cooperatively with DFG to re-evaluate any data which FWS may have and alternatives to reduce significant impacts to bears.

Protecting Traditional Uses: Sections 811 and 1110 of ANILCA

One of the FWS objectives for public use of the refuge is:

"Maintaining traditional and non-motorized uses of refuge lands for subsistence users and the general public is recognized as a priority." (p 17)

This objective is highly misleading because it does not specifically acknowledge protection of traditional **motorized access** as intended by Congress. Sections 811 and 1110 of ANILCA are specifically designed to insure that traditional public uses would be allowed to continue unless solid documentation of resource damage is shown to justify specific public use restrictions. In some instances, e.g. aircraft landings, pack animals, group size limits, certain camping limits, the State does not believe that sufficient site-specific evidence of resource conflicts, consistent with this provision, exists to warrant the proposed restrictions. Many pages of the PUMP are devoted to describing the impacts of public use on wildlife. Upon

closer examination, however, one finds that the studies tend to be generic, and are based primarily on the **potential** for impacts.

Even in instances where some justification for restricting public use may exist, the PUMP does not provide guidelines or criteria to illustrate that the restrictions are the minimum necessary to protect refuge resources. In our review of the draft Kodiak Comprehensive Conservation Plan (CCP), we noted that "the CCP does not adequately delineate the criteria or process which will be used in making case-by-case decisions on what uses and activities are and are not compatible with the purposes of the refuge." This lack of clear criteria was not remedied in the Final CCP, the Record of Decision, the Draft PUMP, and now this draft of the final PUMP.

As stated in our comments on the draft PUMP, some public use restrictions appear to have merit, such as the seasonal closures in certain bear concentration areas; however the State has difficulty endorsing the specifics associated with these restrictions at this time because they have not yet been thoroughly assessed in cooperation with DFG. Also, the State cannot accept that in some instances, e.g. camping restrictions, the PUMP is inappropriately attempting to extend them to state land without the participation and agreement of the State.

The State finds no merit whatsoever for, and must object to, the **refuge-wide** camping limits on unguided public use, the policy to provide no new cabins or campground improvements such as outhouses or meat caches, and prohibitions on new tent frames.

The remainder of this letter will convey additional comments specific to this document and/or elaborate on selected major issues. Refer also to our May 11, 1990 comments on the draft PUMP as well as the State's comments on the CCP, dated March 21, 1986 and July 20, 1987. If FWS wishes to reassess this PUMP and cooperatively identify needs for public use and resource management, we will provide the additional comments, suggestions, and effort necessary to develop a cooperative management plan.

### Snowmachines

As stated in our comments on the draft PUMP, the State believes that there is sufficient justification to consider site-specific prohibitions of snowmachine use in bear denning areas. This conceptual support does not extend to endorsement of the proposed regulations, however, since the FWS has not followed the proper ANILCA Section 1110 procedures as noted above.

For example, the key to FWS management direction for snowmachines may be found in two statements (p 19): "snowmachines have not traditionally been used on Kodiak Refuge" and the FWS "permits use of snowmachines for subsistence purposes where their use is traditional". The State interprets "traditional" uses to be those which occurred prior to the passage of ANILCA; yet we are unaware of FWS studies identifying what uses occurred prior

to 1980. Any pre-1980 snowmachine use on Afognak and Ban Islands, (ANILCA refuge additions) would be considered traditional access. The FWS cannot prohibit such access in the extensions without completing the congressionally dictated procedures.

We believe that the FWS cannot base their permitting policies on "traditional" uses where there is no data base to identify what is and is not traditional. We also believe that ANILCA Title XI regulations apply not only to extensions but also to the units which existed prior to ANILCA.

### Public Use Cabins

The State believes the remaining 8 public use cabins are insufficient for public use and safety on Kodiak Refuge. We also object to the prohibition of alternate traditional uses, e.g. trapping, hunting, general public recreation, of set net and other cabins when not under commercial fishing use. Many cabins which were formerly available to local residents in the off season can no longer be used for these traditional activities. We do not understand why the FWS continues to refuse to allow cabin use for secondary activities by the public and to cooperatively evaluate the need for additional public use cabins. (See also the State's comments concerning Appendix N of the CCP).

### Temporary Facilities

ANILCA Section 1316 states that temporary facilities (e.g., tent platforms, fuel caches, campsites) SHALL be permitted when the use is a necessary part of fishing and hunting activities. Instead, the PUMP proposes numerous closures and limitations. The plan fails to identify what criteria have been established to evaluate the need to restrict activities which Congress intended to protect.

We continue to assert that minor campground improvements such as outhouses and meat/food caches at popular sites are needed to reduce impacts. Instead, refuge management continues to emphasize limiting such use rather than accommodating use.

### Areas Closed To Public Access

The four areas proposed for public access closure are high density bear feeding areas with high potential for bear/human encounters. While these closures may have merit, we would appreciate opportunities to cooperate with FWS in assessing known uses by bears and humans to look for alternative management scenarios which could accommodate uses rather than continue restricting them. For example, some of the drainages are sport fishing areas as well. Hence, it is appropriate for FWS to cooperate with state resource experts and policy staff of

sport fisheries and wildlife to define limits in some areas and develop such uses in others. In addition, DNR should be involved in any management activities which may rely on public use restrictions within state-owned waterways. We also request inclusion of maps for each closed area in the final plan.

The proposed closure at Connecticut Creek may be the best justified because human use (photography) has already increased and the potential for bear/human conflicts is high. However, other existing uses need to be documented, evaluated, and impacts of the displacement or options for space and time limitations further developed cooperatively.

South Uyak Creek is used by Munsey's Lodge for bear photography but very little nonguided use occurs now. Upper Pinnell Creek currently receives little use. These closures would have little impact on hunting opportunity and minor impacts on opportunity for wildlife viewing and photography. However impacts on sport fishing and other activities need further joint evaluation.

Similarly, the nine areas recommended for seasonal camping closure may be reasonably justified but should be cooperatively assessed with the State. (Note that no map of the Ayakulik River closure is included.)

#### Refuge-wide Camping Limits

The proposed 15-day camping limit will not impact most hunters and could actually enhance hunter opportunities. Like the bear concentration area closures; however, the State cannot endorse the restriction without direct State participation concerning state-owned waterways and until ANILCA requirements have been met.

The 7-day limit on the upper reaches of the Uganik, Spiridon and Zachar drainages potentially affect goat hunters in areas well above where salmon are found. Similarly the Ayakulik River has many miles of headwaters with little salmon feeding by bears. Even by FWS standards, there appears to be no need for the time limit above where salmon are fed upon by bears. Consequently, the State objects to implementation of the camping limits, especially in the headwaters, until a more thorough cooperative evaluation is conducted of all uses and impacts. We do note that some minor changes have been made in the restrictions since proposed in the draft PUMP, but they do not approximate the degree of cooperation with the State necessary to satisfy State authorities and mandates.

#### Subsistence

We appreciate the addition of a section (pp 12-15) describing subsistence uses of the refuge; however, the information is insufficient for planning. Only two maps and less than one page

of text are devoted to the subject. The adequacy for management purposes of the existing subsistence use data for the refuge and refuge area communities is not discussed. The PUMP reports that most subsistence harvests occur off refuge lands but nineteen "refuge resources" which may be taken by local residents are nonetheless identified.

### Role of Subsistence Uses

We request that the plan clearly acknowledge that the FWS considers subsistence use to be a public use activity. We must assume this because public use restrictions currently do not make exceptions for subsistence use. Yet throughout the document, little if any attention is given to traditional subsistence uses which pre-date other uses of the refuge. For example, the opening paragraph of the section "Human Use of Kodiak Refuge" (page 7) states that little public use was occurring on the refuge when it was established in 1941. Later in the paragraph, commercial fishing and use of the refuge by local communities are cited as the primary activities "impacting refuge lands in the 1940s." Clarification of whether subsistence use is categorized a public use is also needed on page 33. Here the plan says monitoring efforts will focus on identifying impacts to refuge resources and could result in "restrictions being placed on access to and use of the refuge for recreation and other public use activities."

### Subsistence Research

We request the plan acknowledge the cooperative study underway between DFG's Division of Subsistence and the Kodiak Refuge staff. The study involves mapping of areas used by residents of the city of Kodiak, including the road-connected areas, for resource harvest activities. Similar information for Kodiak Island villages and for nonlocal residents would enable refuge staff and the State to better assess uses of the refuge and minimize impacts on subsistence uses. For example, Ahkiok residents fear that overharvest of deer may be occurring in some locations due to nonlocal hunters who use commercial fishing vessels to access local areas in Olga Bay. As a result of this competition, Ahkiok hunters have reportedly been displaced to Deadman Bay and other locations.

The value of the PUMP would be greatly enhanced as a management tool if a section identifying specific research needs, desired studies, and data collection priorities was included.

### Customary and Traditional Use

The village of Old Harbor has submitted proposals to the state Board of Game and the Federal Subsistence Board requesting recognition of customary and traditional use of brown bear. At least one other Kodiak Island village apparently is considering making a similar request. Although the state and federal boards have either rejected or not acted upon these

requests, the plan should recognize the possibility of brown bear being identified as a subsistence species on Kodiak Island and identify the consequences for other public uses. Otherwise, if subsistence uses of brown bear are recognized in regulation as a customary and traditional activity, changes in the plan may be required.

### Federal Subsistence Management

Since our review of the draft plan in 1990, the federal subsistence management program has been implemented. As a result, some changes in management of federal public lands have transpired which we recommend be recognized in the plan.

The section "Environmental Consequences and Section 810 Evaluation" (pp 40-78) does not mention the role of the Federal Subsistence Board in regulating subsistence uses of fish and wildlife on federal public lands until the end of the section. Such recognition should also be made in the Management Directions Common to All Alternatives and other appropriate places in the plan.

We recommend a discussion be included in the plan regarding how separate state and federal subsistence regulatory systems might influence refuge management and impact public uses. For example, DFG is concerned about the possible impacts on certain fish stocks of rod and reel fishing by subsistence users in federal waters on the refuge.

### ANILCA Section 810 Evaluation

The Section 810 Evaluation for Alternative C concludes that the preferred alternative "would not result in significant restriction of opportunities to participate in subsistence activities." Please note that ANILCA Section 810 requires analyses of "significant restriction of subsistence uses." These phrases are not synonymous, thus causing some concern about the accuracy of the analyses and the validity of the preferred alternative.

The PUMP forecasts an 8 percent annual increase in unguided and guided recreational use of the refuge but states this will not significantly restrict subsistence uses. Further analysis of when and where subsistence uses occur relative to areas where recreational uses are expected to increase is necessary to reach this conclusion.

### Deer

An extensive analysis of the potential effects of a natural decline in the deer population on subsistence use has been done, but nowhere are the potential detrimental effects of an exploding deer population discussed. A possible future need to "cap" unguided hunter use is



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mentioned but nothing is said about the beneficial effects of high hunter harvest on an expanding population. The deer is a major modifier of the vegetation, and the possibility of damage to cranberries and other vegetation cannot be overlooked.

#### O'Malley River Bear Viewing Area

We continue to oppose the establishment of O'Malley River as a bear viewing area with closures of traditional activities such as sport fishing. We continue to assert that other areas, such as Connecticut Creek, would be more suitable for a viewing area with less impact on existing activities. A more cooperative approach between policy level staff of the agencies to plan and implement such activities is necessary.

We also oppose the implementation of a concessionaire-run bear viewing area. Many significant problems in this year's experimental program have not yet been resolved. In particular, commitments made regarding the program's interpretation and visitor guidance were not implemented. Until such problems are resolved, we find it inconceivable to hand over such a program to a private operator. Furthermore, the State has requested opportunities for meaningful dialogue concerning planning and implementing bear viewing areas on Kodiak. To date, FWS has failed to accommodate our request and has instead continued to rely on unsubstantiated justification.

#### Guide-Outfitter Information

In addition to our earlier correspondence regarding unnecessary limitations on guides and outfitters, we find the PUMP contains serious misinterpretations of the relationship between the state and federal systems (pp 11-12). Enclosed please find an October 6, 1992 memo documenting the outcome of actions by the Big Game Commercial Services Board to accommodate special interests of the federal agencies in the state's system. Contrary to the plan's representation, the State has completed a legally viable program but has delayed implementation to accommodate the additional federal requests. The erroneous statements in the plan should be corrected prior to public distribution; and we will provide editorial suggestions if desired.

#### Water Quality

In several places the PUMP references Section 303(5)(B)(iv) of ANILCA which requires the FWS "to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in subparagraph (i), water quality and necessary water quantity within the refuge." Yet the document contains only passing mention of water quality issues and does not address the effects of the various alternatives on water quality or the disposal of solid

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waste. Instead, the document focuses almost exclusively on wildlife impacts, particularly bears. A broader assessment of other refuge resources is necessary to gain a complete understanding of the alternatives.

### The State's Role

In the section on pp 19-25, the tallies of draft PUMP commentors does not make a distinction between individuals and the State of Alaska; yet the State's position on these issues represents more than half-a-million constituents, and numerous state agencies and their respective authorities. We object to this approach. If the FWS persists in publishing such undifferentiated tallies, the State may be forced to re-evaluate its form of response.

### Document Organization

The final PUMP should be streamlined through consolidation. Many appendices contain repetitive maps and information, and each alternative analysis repeats the same studies. We recommend that this duplicative information be trimmed, and replaced with more thorough discussions of other issues, e.g. water quality -- perhaps excerpted from the CCP. Many readers will not have the five-year old CCP as a reference document.

### Conclusion

Thank you for the opportunity to review this document. State agencies sincerely hope that additional opportunities for coordination will be provided before this plan is finalized. The State is willing to work with the FWS to design and implement a plan that facilitates public use while protecting refuge resources.

If you have any specific questions about these comments or wish to establish a dialogue on any issue(s), please contact Sally Gibert at 561-6131.

Sincerely,



Paul C. Rusanowski, Ph.D.  
Director

Jay Bellinger -- Kodiak PUMP

October 16, 1992

cc:

Walter Stieglitz, Regional Director, U.S. Fish and Wildlife Service  
Charles Cole, State Attorney General, Department of Law  
Carl Rosier, Commissioner, Department of Fish and Game  
Glenn Olds, Commissioner, Department of Natural Resources  
John Sandor, Commissioner, Department of Environmental Conservation  
Frank Turpin, Commissioner, Department of Transportation and Public Facilities  
Richard Burton, Commissioner, Department of Public Safety  
John Katz, Governor's Office, Washington, D.C.

## MEMORANDUM

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME

TO: David Kelleyhouse  
Director  
Div. of Wildlife Conservation  
Anchorage

DATE: October 6, 1992

TELEPHONE: 267-2420

FROM: John Morrison, Coordinator  
Guide-Outfitter Project  
Div. of Wildlife Conservation  
Anchorage

SUBJECT: Meeting of Big Game  
Commercial Services  
Board (BGCSB)

*John Morrison*

The BGCSB met in Fairbanks on September 26 and 27, 1992. Most of the meeting time was spent in reviewing public comment on the proposed guide-outfitter (G-O) use areas. Another major topic was the set of proposed regulations for registering G-Os in the use areas. All of the current board members were present. The board member for representing Native landholders resigned several weeks ago and a replacement has not yet been appointed.

The dominant topic in the meeting was the final designation of G-O use area boundaries. Having decided at the March meeting what we believed would be the final boundaries, and having conducted a public review period of the boundaries from July 15 to September 4, the board reviewed the public comments throughout the meeting. Only 44 written comments were received. Of these, three opposed creating any G-O use areas, three were from Native organizations not wanting G-O areas in their vicinities, two were irrelevant to the question, and only 36 addressed the question of boundary line locations. These 44 comments were submitted by only 25 individuals or organizations, some of whom sent comments for several different areas. Seven of the comments came from one person. Out of 460 registered G-Os, over 1,000 assistant G-Os, various land and resource managing agencies, and numerous Native organizations, 25 commentators is an unexpectedly small response.

At the meeting, oral comments were presented by representatives of the Kwethluk Village Corporation and the Northwest Arctic Borough expressing opposition to guiding operations in their areas of interest. Together, they would exclude G-Os from all of western Alaska, including GMUs 17, 18, 19, 21, 22, 23, and 26A. Little of these areas are Native-owned, mostly being federal or state properties. Ten G-Os gave oral comments. These concerned G-O area boundaries in GMUs 5, 8, 9, 20, and 23 through 26, all of which resulted in some extent of boundary changes.

The G-O areas created on Fish and Wildlife Service refuges and National Park Service Preserves used up most of the meeting time

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and caused extensive changes in state-proposed G-O use area boundaries. Representatives of these agencies were Daryle Lons for the FWS and Jeff Cobb, Pat Quinn, and Russell Lesko for the NPS. Mr. Cobb replaced Ms. Becky Kaiser as Chief of Concessions in the NPS, Mr. Quinn is Cobb's assistant and works with all NPS preserve G-O area planning, and Mr. Lesko is a staff member of the Wrangell - St. Elias National Park. The federal representatives were emphatic in stating that their G-O use areas were unchangeable. A problem for G-Os and the state, was that numerous federal areas contained parts of two or more state areas. State regulations allow a G-O to be registered in only three G-O areas. In some federal areas, therefore, a G-O would have to use two or three of his allowances in that one place. In some instances four state G-O areas enter the federal area. Many of the federal areas are designated for sole use, so a G-O would not have enough state area allowances to use the federal land.

The Board had agreed in the March, 1992 meeting to adopt the FWS G-O area boundaries inside the Arctic National Wildlife Refuge, while combining peripheral refuge areas with lands under other ownerships to create state-designed G-O areas for which a G-O would need use permits from both land managers. This same agreement was extended to the other refuges and NPS preserves as a solution to the lack of coincidence between state and federal areas. In some locations, two or more state areas were combined to completely enclose one or more federal areas. Thus a G-O would need to use only one state registration. In other locations, state G-O area boundaries were altered to achieve a more desirable relationship with the federal areas. Seven areas originally designated as closed to guiding were changed to allow guiding. The board had become aware that it lacked authority to make such closures. These areas included the vicinities of Fairbanks, Valdez, and Cold Bay, most of GMU 18, the northwest corner of Kodiak Island, a corridor along the lower Kuskokwim River, and the upper end of GMU 21D around the lower Koyokuk River.

The Board also discussed the proposed regulations to be followed in managing the G-O use areas. Section 12 AAC38.840, Emergency Use Area Registration, was especially of concern. It has to do with suspending some of the G-Os using a given area to prevent overharvest of game. The concern was what constitutes an emergency and how will G-Os be selected either to stay or to be suspended? The Attorney General's Office had told the Board that the regulations could not be approved with 12 AAC38.840 included in its proposed intent and language because it did not explain an acceptable method for selecting the G-Os to be suspended. The board voted to delete the section for the present and will attempt to devise another way of dealing with the potential problem of too many G-Os in a given area.

The Board will meet again during the week of December 7, 1992. At that time it wants to put the final approval on the G-O use areas and regulations. The Attorney General's office wants new

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maps showing G-O use area boundaries as revised September 26 and 27, 1992, and wants the maps for their review by November 15, 1992. We cannot possibly create new maps through our computer system on such short notice. Sixty-four quads at 1:250,000 scale must be revised to show boundary changes. A presently undetermined number of other quads must be reprinted to show new G-O area identification numbers where the number of areas in a GMU has increased or decreased. Mr. Paul Johnson, Chairman of the BGCSB has asked the Attorney General's office to accept a set of hand-drawn G-O use areas on the 1:1,000,000-scale UCU maps to enable them to begin the approval process after the December Board meeting. We anticipate their answer by October 8, 1992, on which date Mr. Johnson is scheduled to meet with SuzAnne Miller and me in Anchorage.

cc: Wayne Regelin  
Dave Anderson  
John Coady  
SuzAnne Miller  
Chris Smith

RECORD OF DECISION  
KODIAK NATIONAL WILDLIFE REFUGE  
Comprehensive Conservation Plan,  
Environmental Impact Statement,  
and Wilderness Review

This Record of Decision is based on the Final Comprehensive Conservation Plan, Environmental Impact Statement, and Wilderness Review (Plan) for the Kodiak National Wildlife Refuge dated March, 1987. It also considers comments from the public received during the public review period for the draft Plan and comments received on the final Plan. The plan describes four alternatives for managing Kodiak Refuge and the effects of implementing each of these alternatives. An alternative reflecting current management is included as one of the management strategies (Alternative A, the Current Situation). The other alternatives reflect a broad spectrum of management emphasis.

It is my decision to select Alternative C, the Preferred Alternative, as described in the final Kodiak Refuge Plan, for implementation with the attached changes. This alternative includes a 1.17 million acre wilderness proposal.

The determination of impacts on subsistence is found in the Environmental Consequences chapter of the plan, and is in accordance with Section 810 of the Alaska National Interest Lands Conservation Act. In order to implement some aspects of this Record of Decision, the Service may prepare regulations governing resource protection in Kodiak Refuge for public review. If this occurs, the regulations will be published in a proposed form and public hearings will be conducted in the vicinity of the refuge to solicit public comment prior to regulation finalization.

12/2/87

Date

Walter O. Stiglitz

Regional Director

Attachments

ATTACHMENT B  
To the Record of Decision for the  
Kodiak National Wildlife Refuge  
Comprehensive Conservation Plan

To address concerns about the final Kodiak Refuge Plan raised by the State of Alaska, the following additions or revisions of Common Management Directions on pages 172-206 are hereby made a part of the Kodiak Record of Decision.

Fish and Wildlife Research

The Service fully intends to consult and coordinate with the Alaska Department of Fish and Game when setting priorities for studies and research.

Shorelands, Tidelands, and Submerged Lands

The Submerged Lands Act of 1953, the Alaska Statehood Act of 1958, and the state constitution provide for state ownership of water (subject to the reservation doctrine discussed under the water rights section), shorelands (the beds of navigable waters) tidelands (lands subject to tidal influence), and submerged lands (lands seaward from tidelands).

Determination of what waters are navigable is an ongoing process in Alaska at both the administrative and judicial levels. Within Kodiak Refuge, the Bureau of Land Management will determine the navigability of the portions of streams and lakes that are within lands selected by Native corporations or by the State of Alaska. Pursuant to section 901(g) of the Alaska National Interest Lands Conservation Act, those determinations are for the purpose of determining title to lands beneath navigable waters as between the United States and the State of Alaska. At this time, the Bureau of Land Management has determined no navigable waters on Kodiak. Some water bodies may be determined to be navigable in the future.

The Service will work cooperatively with the state to ensure that existing and future activities occurring on shorelands, tidelands, and submerged lands are compatible with the purposes for which the refuge was established. In the future, the Service may propose management actions to the state for these areas. The Service will manage the refuge uplands adjacent to shorelands, tidelands, and submerged lands to protect their natural character.

Management of Water Columns

The Service has authority to regulate certain activities on watercolumns to protect refuge lands, and for conservation purposes. These authorities stem from two provisions of the the United States Constitution (the Property Clause and the Commerce Clause), the Alaska Lands Act, and other authorities including the National Wildlife Refuge Administration Act of 1966, the 1899 Rivers and Harbors Act, the Fish and Wildlife Coordination Act of 1958, and the Migratory Bird Treaty Act. The State of Alaska also has authority to manage water based on the laws cited in the section on shorelands above. These laws provide for water management by both the State and the Service.



The Service will pursue cooperative management agreements with the State of Alaska regarding public uses on waterways in the refuge. Agreements will be pursued only if a case-by-case resolution of management issues proves unacceptable to the Service and the State.

#### Section 17(b) Easements

Sites and linear access easements may be reserved on Native corporation lands that are within or adjoin the Kodiak Refuge, as authorized by Section 17(b) of the Alaska Native Claims Settlement Act. The Service will be responsible for management of the public access easements inside the refuge and for those assigned to the Service outside the unit. Pursuant to Part 601 of the Department of the Interior Departmental Manual (601 DM 4.2), where these easements access, or are part of the access to, a conservation system unit, the easement shall become part of that unit and be administered accordingly. The purpose of 17(b) easements is to provide access to public lands. The routes and location of these easements are identified on maps contained in the conveyance documents. The conveyance documents also specify the terms and conditions of use, including periods and methods of public access.

The Service will work cooperatively with the affected Native corporations and other interested parties, including the State of Alaska, to develop management strategies for easements. Management of these easements will be in accord with specific terms and conditions of the individual easement and applicable refuge regulations. As easements are reserved and the Service assumes management responsibility for them, the locations, mileages and acreages will be compiled and management strategies will be formulated. This information will be maintained at refuge headquarters.

As authorized in 601 DM 4.3G, the physical location of an easement may be adjusted to rectify a usability problem or to accommodate the surface and/or subsurface landowner's development of the lands, if both the Service and the landowner agree to the relocation. Easements also may be expanded, if an acceptable alternate easement or benefit is offered by the landowner and the exchange would be in the public interest. An easement may be relinquished to the landowner if an alternative easement has been offered by the landowner or termination of the easement is required by law.

The Service may also propose to place additional restrictions (to those authorized in the conveyance document) on the use of an easement, if existing uses are in conflict with the purposes of the refuge.

In all cases where a change is proposed in authorized uses or location from the original conveyance, the Service will give adequate public notice and opportunity to participate and comment to the affected Native corporation and other interested parties, including the State of Alaska. Service proposals for changing the terms and conditions of 17(b) easements will include justification for the proposed change, an evaluation of alternatives considered, if any, and an evaluation of potential impacts of the proposed action.

**CSU Distribution List  
Kodiak PUMP IRF State Comments  
October 20, 1992**

Tina Cunning, Department of Fish & Game, Anchorage  
Al Carson, Department of Fish & Game, Anchorage  
Terry Haynes, Department of Fish & Game, Fairbanks

Priscilla Wohl, Department of Environmental Conservation, Anchorage

Alice Iliff, Department of Natural Resources, Anchorage  
Ron Swanson, Department of Natural Resources, Anchorage

Jeff Ottesen, Department of Transportation/Public Facilities, Juneau

Beth Kertulla, Attorney General's Office, Juneau  
Liza Gay, Attorney General's Office, Anchorage  
Cheri Jacobus, Attorney General's Office, Anchorage

Connel Murray, Division of Tourism, Juneau  
Stan Leaphart, CACFA, Fairbanks