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May 6, 1992

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

Dear Mr. Stieglitz:

The State of Alaska has reviewed the U.S. Fish and Wildlife Service (FWS) Draft Fisheries Management Plan (FMP) for the Arctic National Wildlife Refuge. This letter represents the consolidated comments of the State's resource agencies.

The State appreciates the cooperation which the FWS has extended to state agencies, particularly the Alaska Department of Fish and Game, in the preparation of the draft FMP. Staff discussions regarding study and management proposals, in addition to data exchanges, have resulted in significantly fewer outstanding issues and errors than earlier fishery plans. We commend this cooperative approach and compliment the resulting product.

The following comments provide a clarification of information included in the draft plan and a discussion of issues which we request be addressed in the final plan.

State Land and Water

The plan does not adequately acknowledge State ownership of shorelands, tidelands, submerged lands, and water within the refuge, or acknowledge the role of the State regarding water rights.

The plan should include the same language that is included in other FWS management plans that outlines State ownership and management over certain land and waters within the refuge. An example of appropriate language may be found on pages 26-29 of

the Togiak National Wildlife Refuge Public Use Management Plan, (pages attached for your convenience). This language should be included with the management history section starting on page 46, and on page 57 in the section addressing strategies and constraints.

The paragraph that addresses water rights (bottom of page 65) should be replaced with the following:

"Federal reserved water rights are created when federal lands are withdrawn from entry for federal use. They are created for the minimum amount of water reasonably necessary to satisfy both existing and reasonable foreseeable future uses of water for the primary purposes for which the land is withdrawn. The priority date is the date the land is withdrawn for the primary purposes.

"Federal reserved water rights in Alaska can be claimed and adjudicated in basin-wide adjudications in conformance with the McCarran Amendment under state law, AS 46.15.165-169 and 11 AAC 93.400-440, either administratively or judicially. Alternatively, federal water rights may be applied for and granted under state law for either out-of-stream or instream water rights. In any case, water claimed or requested must be quantified.

"The FWS will work cooperatively with the State of Alaska to inventory and quantify its federal water rights under state law. Water resources of the Arctic refuge will be managed to maintain the primary purposes for which the refuge was established."

The last sentence of the last paragraph on page v should also be changed to reflect the language outlined above.

In addition to federal reserve water rights, the executive summary should note that a federal agency can apply for water rights through the existing state water rights system. By applying for water rights through the state it will, in many cases, provide the USFWS with the senior water rights and save both the state and federal government the cost of a federal reserve water right adjudication. The issue of state water rights will not preclude the federal agency from applying for its federal reserve water rights in the future if the need arises. The Alaska Water Use Act also allows public agencies to apply for reservations of water for instream uses including fisheries, recreation, and water quality purposes.

Habitat Management

The Executive Summary states that the FWS will be chiefly responsible for habitat management. The Alaska Department of Fish and Game (DFG) has complimentary responsibility for habitat protection under the provisions of the Anadromous Fish Act (A.S. 16.05.870 - A.S. 16.05.900) and the Fishway Act (A.S. 16.05.840 to 16.05.860). These laws pertain to anadromous fish habitat pursuant to the Anadromous Fish Act, and to all waters containing fish under the Fishway Act, regardless of land status. We request that the final plan (e.g., pages v and 2) recognize the DFG's responsibilities and include intent to continue a cooperative approach to habitat management.

Fishery Program Priorities

State concerns with program priorities, tasks, and funding in Sections 8 and 9 have been the subject of earlier communications to the FWS from DFG (April 14, 1988 and December 28, 1990). At a March 11, 1991 meeting, FWS staff concurred with DFG's suggestions and corrections for specific tasks which were detailed in the December 1990 letter to FWS. FWS staff have subsequently indicated that the priorities for FWS fishery studies in the Arctic refuge are being directed from Washington, D.C. If the refuge does not have the flexibility to change these priorities, the State nonetheless desires to remain on record supporting these funding shifts for future consideration. For example:

- Subsistence harvest surveys and char investigations such as the proposed Kongakut River study be elevated to the highest funding priority.
- A project focusing on Arctic grayling, an important fish species in the Arctic refuge should be added.
- The coastal fisheries investigation is the most expensive project and may detract from other important projects that could provide significant information for management of fish resources. This project should receive a lower priority.

At the March 1991 meeting, the FWS did agree, however, to include tasks to "monitor commercial, sport and subsistence harvests", listing DFG as "Responsible Office". Since this was not done in the draft plan, we again request these changes. In particular, determining harvest levels of fish populations and the monitoring of population levels should list DFG, as is done for enforcement of regulations. Without these changes, DFG's role is merely listed in the text but not reflected in the actual program.

Technical Comments

Page 3, Setting: The FMP should indicate that the western boundary of the refuge borders state land, much of which has been leased for oil and gas exploration and potential development. Infrastructure development for areas within the refuge is likely to originate from the existing oil fields located between the Sagavanirktok and Colville rivers.

Page 14, Water Resources: Most fish overwintering habitats occur in under-ice pools of water, deep lakes, and spring-fed areas that remain ice free. The available habitat is limited because of freezing and ice formation. Most biologists believe that overwintering areas are limiting habitats for fish in the Arctic refuge, and water withdrawals can adversely affect fish habitat. We request that this issue be recognized in the final plan.

Page 36, last sentence of carry-over paragraph: replace "in refuge waters" with "in waters occurring on the refuge."

Pages 39-40, Subsistence: North Slope: During the State's FY 1989, DFG's Division of Subsistence conducted a study in cooperation with the FWS that examined the subsistence fishery in Kaktovik. It was intended as the first year of a proposed five-year study, but was supported by the FWS for only one year. The final report, therefore, was completed in August 1990 and entitled Assessment of the 1988-89 Kaktovik Subsistence Fishery, by Sverre Pedersen. Appended to the copy of the report provided to the Arctic refuge manager were materials from other unpublished Kaktovik subsistence fishery studies. We recommend that these sources, including the Pedersen report, be cited in this section.

Page 64: The statement that the life history of arctic char and arctic cisco are quite well understood may overstate our current level of knowledge. The spawning areas for arctic cisco that use the Alaska Beaufort Sea have not been fully identified, although several studies indicate that the Mackenzie River is likely to be an important spawning area for these fish. The uncertainty regarding the status of the Kongakut River char fishery indicates that important details concerning the life history of North Slope riverine char populations are not fully understood. While the marine phase of the life history of these fishes has been adequately described, more information is needed on the freshwater phase and especially the early life history.

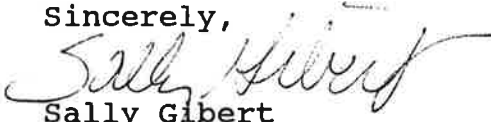
Page 71, Objective 3.1: The plan calls for FWS to coordinate with DFG in conducting subsistence fish harvest surveys in Kaktovik (1992, 1994, and 1996) and in Arctic Village (1993 and 1995). We recommend that FWS expedite communications with DFG's Division of Subsistence regarding any survey work proposed for

1992, so that it can be coordinated with other possible data collection activities.

We also recommend that FWS explore optional strategies for collecting fish harvest data in Arctic Village. In recent years, the community has not been responsive to such efforts proposed by the DFG and Tanana Chiefs Conference.

Thank you for the opportunity to review the Arctic refuge Fisheries Management Plan. We look forward to future opportunities to discuss these comments with the FWS. If you have any questions, please contact Sally Gibert at 561-6131. For questions specific to the fisheries, please contact Carl Hemming at the Alaska Department of Fish and Game at 451-6192.

Sincerely,



Sally Gibert
State CSU Coordinator

cc: Don Voros, Refuge Manager, Arctic National Wildlife Refuge
Carl Rosier, Commissioner, Department of Fish and Game
Harold Heinze, Commissioner, Department of Natural Resources
John Sandor, Commissioner, Department of Environmental
Conservation

State CSU Coordination Distribution List

Document: Arctic FMP State Letter

May 6, 1992

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