

STATE OF ALASKA

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July 24, 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 Fishery Management Plan for the Kanuti National Wildlife Refuge. This letter represents the consolidated comments of the State's resource agencies.

The State of Alaska appreciates that the FWS has addressed most State concerns in a satisfactory manner. The Alaska Department of Fish and Game (DFG) is particularly pleased to have had the opportunity to closely cooperate in the preparation of this plan. Portions of the plan that address data interpretations and DFG's fish and wildlife management-related concerns are notably well done.

This fishery management plan stands out from its predecessors for addressing most issues and respective responsibilities of the FWS and DFG in straightforward and accurate detail. In several instances, language within the plan resolves longstanding conflicts that have remained in previous plans. We request that you consider adopting clarifying amendments for the previous fishery management plans so that they may be consistent with the issue resolutions in this plan. We welcome opportunities to discuss preparation of such amendments.

State Land and Water

Though previously requested, this plan does not acknowledge the State's ownership and management authority over waters and submerged lands (the beds of navigable waterways) within the refuge boundaries. We again request that the plan include the same language found 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. Recognition of State land and waters should be included in the Land Status section on page 4, with the map on page 5, and in the Water Resources section that begins on page 12.

Water Rights

The State appreciates that the FWS has modified language concerning water rights so that it is closer to the language that we have provided. The Department of Natural Resources does not believe that these modifications are adequate, however, in acknowledging the role of the State regarding water rights. We request that the Water Rights section on page 12 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."

Applying for water rights through the State will, in many cases, provide the FWS 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.

Page-Specific Comments

Pages 20-23, Subsistence Fisheries. The State appreciates that this overview of subsistence fisheries in refuge area communities cites the major published sources currently available and is more informative than similar discussions in most FWS fishery management plans reviewed to date.

Page 25, Issues and Concerns. The plan notes concern for the potential overharvest of refuge salmon stocks and the subsequent need to protect subsistence uses. We agree that this is an important issue, but it is not one for which the FWS has primary management authority, as noted on page 29.


Page 29, paragraph 5. We request the first sentence be revised to reflect a goal such as "maintain historic levels subject to natural cyclic fluctuations". We suspect the FWS would not want to be bound to the commitment to "maintain fish populations at their current harvest levels". We also note that the State DFG, not the FWS, regulates harvest levels.

Page 31, paragraph 4. We appreciate the commitment by the FWS to coordinate its proposed subsistence salmon harvest surveys with DFG. It is questionable whether the FWS effort should duplicate or replace DFG's annual subsistence salmon harvest monitoring program in refuge area communities. We welcome an opportunity for representatives of both agencies to discuss this issue and determine the most effective strategy for collecting data needed for management purposes in the least disruptive manner.

Page 36, Objective III.1; and page 41, Priority of Tasks: ADF&G. The DFG Division of Commercial Fisheries is principally responsible for DFG's subsistence salmon harvest monitoring program, although the Division of Subsistence has in recent years coordinated the data collection effort. DFG does not routinely collect subsistence harvest data for other fish species in the Kanuti refuge area, but recommends that the FWS discuss its plans with the department so that duplication of effort can be avoided and data is collected in a manner compatible with DFG's Community Profile Database.

Thank you for the opportunity to review this fishery management plan. If you have any questions concerning these comments, please feel free to contact this office.

Sincerely,



Sally Gibert
State CSU Coordinator

cc:

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

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July 24, 1992

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