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March 3, 1993

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 most recent revisions to the internal review final of the Kodiak Refuge Public Use Management Plan (PUMP). This letter represents the consolidated comments of the State's resource agencies.

The State appreciates the additional opportunity to review the selected sections and rewrites. We are also pleased that the U.S. Fish and Wildlife Service planning and refuge staff met with state representatives on November 16, 1992. We welcomed the open-minded approach and flexibility displayed on the issues that were discussed and that resulted in greater mutual understandings as well as a number of revisions. We encourage additional forums for discussion to seek similar resolution of remaining outstanding issues.

The contents of this letter primarily address the sections represented in the packet of materials we received on January 12, 1993. Since there are other issues which were not addressed in the November 16 meeting nor in the selected revisions, these topics will be addressed more fully when the State reviews the full document. Also, in some cases our comments on the portions we have reviewed may be modified based on the context of the overall plan.

General Comments

The State supports the Service's efforts to apply management recommendations uniformly to all users, improve coordination with other government agencies, and address monitoring.

We are particularly appreciative of the Service's reconsideration of many blanket bans on access means, public uses, and facilities. While we still have concerns about the remaining restrictions of traditional (pre-ANILCA) recreational uses, we sincerely hope that additional re-evaluations before completion of the final plan will lead to further reduction of public use restrictions wherever options are available.

A comparison of the October internal review plan and the January sections shows significant improvements in both policy and wording. For example, the acknowledgements of mandates in ANILCA Sections 811 and 1110 for allowing access and describing the process to pursue restrictions are more complete and accurate. We suggest such forthright acknowledgement of these authorities and responsibilities should be included in all management plans.

We appreciate the Service's editorial change from the draft plan's multiple repetitive Appendices to one Appendix. We still find, however, that some of the discussions regarding existing public uses of the refuge are subjective in their assessments. For example, bear kills in-defense-of-life-or-property (DLPs) by deer hunters may have increased, but so have the deer population and number of hunters. As the population and number of hunters is decreasing, so will the accompanying number of DLPs.

#### Basis of Restrictions

We respectfully continue to disagree that increasing use levels are causing "adverse human/bear interactions" that in turn cause increased DLPs. The data simply do not support the inference that such interactions and kills have increased to a point necessitating refuge-wide emphasis on reduction of recreational and existing activities to protect the resources.

#### Traditional Uses

Based on the sections offered for supplemental review, it appears that the Service has not fully recognized the importance of identifying, studying, and protecting traditional (pre-ANILCA) uses. To follow-through with the Section 1110 ANILCA processes so aptly described, the Service should establish the study of such traditional uses as a high priority. Without this information, the Service cannot expect to limit or prohibit traditional uses without violating the intent of ANILCA.

#### The Landownership Issue

The State believes that the section addressing the dispute over ownership and management authority of waterbodies, shorelands,

tidelands, and submerged lands within the refuge will help inform the public. In the State's experience, the public does not always see the connection between such sections and the actual effects that may result from the plan. We therefore suggest adding the following to Line 3/Paragraph 2 of the new shorelands section: ... "this plan and any other plans implemented in conjunction with this plan, such as those...." This clarifies a connection with the other plans mentioned in the draft PUMP.

While the addition of the new sections/rewrites is commendable, the State's position with respect to State ownership and management authority remains unchanged.

### Page-Specific Comments

To streamline our comments, we are providing them in abbreviated form. If editors need further explanation, please call for clarification.

P 1 cont'd on 2nd page, 1st full para, line 3: Delete "big game wildlife management" from the list. According to the referenced MMOU, FWS adopts DFG's wildlife management plans unless formally determined incompatible; ANILCA Section 1314 reconfirms state authority to manage wildlife.

Same page, same para: The reference to fishery management plans should similarly restate the premise of the MMOU and state management.

Same page, last para: The State disagrees that the Federal Subsistence Board "has responsibility for subsistence regulations" involving the take of fish and wildlife (State of Alaska vs. Lujan). Because this issue is in litigation, it would be appropriate to reference the litigation regarding the regulatory scheme involved in providing the subsistence preference.

Page marked "Add to Management Directions", para 3: Delete "cooperatively manage" and rewrite consistent with the revised language for page 1. Only the State has authority for management of fish and wildlife resources. The rest of the paragraph is excellent.

P 17 should be revised to reflect that the refuge system purposes in the National Wildlife Administration Act, Refuge Recreation Act, and ANILCA reconfirm that purposes of the refuge system include providing recreational opportunities. ANILCA legislative history affirms that the purposes listed for each conservation system unit are not all-inconclusive and not prioritized. Consequently, delete "four primary" on line 1 and "major" in line 3. More importantly, we urge reconsideration of the logic behind the

current wording and seek a revision so that the public understands the refuge's responsibilities for providing recreational opportunities.

Objective #3 "emphasizing short-term, low-density public use" should be reordered with #4. The current order infers that maintenance of traditional uses is a lower priority than providing high quality but reduced public uses.

P\_19, Snowmachine Use. As previously stated, pre-ANILCA activities on the refuge have not been fully researched and documented to determine what uses are traditional. Without such baseline information, FWS cannot reasonably define those uses that are traditional (pre-ANILCA), and thus protected by Sections 1110 [and 811] regulatory procedures. Without conducting genuine research to determine traditional uses, we continue to object to arbitrary statements such as "snowmachines have not traditionally been used".

According to our notes of the November 16 meeting, the FWS agreed to take out tallies of public comment. The State has consistently objected to scorecards of public comments--the State represents many users but is counted as 1 respondent.

P 27 carryover para: We are pleased to see some modifications in the cabin management directions. We will support cabin management policies at Kodiak refuge that are sufficiently flexible to provide for future increases in the number of cabins. The State believes the current nine cabins are insufficient for public health and safety as provided in ANILCA Section 1303(4). We also continue to encourage the Service to provide for extensions in seasons of use and to allow other activities in commercially-permitted cabins in the off-season. (See below.)

P 27, 2nd para of "Trail and" section: We are pleased that the Service has modified the total prohibition regarding improved campsites. We will wait to review how this is discussed in the full plan, but continue to encourage refuge managers to weigh the importance of providing some camp facilities and campsite improvements prior to further limiting users. Further restrictions will only serve to further concentrate impacts.

P 27 and 125-128 "Additional Commercial" sections still do not adequately address problems which the State has raised in previous reviews of the comprehensive conservation plan, cabin policy, and draft public use management plan regarding limits on commercial fishing facilities and additional (traditional) uses of private cabins.

P 27, "Tent Platforms": We continue to oppose prohibitions of new tent platforms in minimal management areas of the refuge. We disagree that any increase above the currently permitted two tent

platforms is a significant increase. We also disagree with the unsupported decision that tent platforms are incompatible with the refuge purposes. We believe additional interagency dialogue concerning tent platforms would lead to greater understandings and possibly mutually acceptable management solutions.

P 83, last full para: Delete "primary purposes" and provide an introduction to the list of purposes which more closely reiterates the ANILCA phrasing.

P 98, "Rationale": We are pleased that the refuge has revised its intended restrictions on snowmachine access. The programs and options available to educate and encourage use which minimally affects wildlife concentrations should dramatically reduce the need for regulations.

We remain concerned about the concept of a "detailed map of refuge areas where snowmachine use will be restricted is available at refuge headquarters." If regulations are proposed which include this provision, we urge that the map be made available for review and comment by the public. During our discussion on November 16, we sought assurances that any revisions to such map would be made cooperatively with the Department of Fish and Game. This assurance, and the process for how revisions would be made, is not discussed in the portions of the plan provided for review. We reiterate our request that the revision process include the State, public notification and involvement of the affected users.

P 99-103, pack animal use: The discussion of historical and possible future pack animal use appears unnecessarily biased and restrictive. In particular, we object to the requirement that any individual must obtain a special use permit, submit a plan of operation more than a month in advance, and comply with burdensome stipulations. Such requirements effectively assure that this use will not be applied for or allowed (but without having gone through the ANILCA-mandated regulatory procedure to prohibit). While there certainly are valid reasons for managing the use of pack animals, not all such use is necessarily going to result in DLPs or habitat impacts. We urge the refuge to provide more reasonable discussion and management directions in the final plan, particularly considering the exceedingly low potential for such use. This is another issue where additional dialogue with the State could potentially identify mutually agreeable solutions.

P 104-124: Public use restrictions must be supportable through well-documented justifications and implementation of management alternatives which reduce the impacts of new uses on traditional uses. As previously stated, the State is willing to cooperate with the Service in designing fish and game-related public use restrictions that have undergone full analysis by all relevant

DFG Divisions. The State can then work with the Boards of Fisheries and Game to implement site-specific, season specific and/or use-specific regulations to protect refuge resources. Instead, the plan continues to propose across-the-board public use restrictions in many areas. The DFG should be approached, for example, to implement fishing restrictions in areas where such activities result in significant human/bear conflicts. In that manner, limited use could continue without regulations prohibiting all use.

We appreciate that the final plan will include fewer restrictions and more carefully evaluated boundaries to target areas. However, we maintain that many of the management prescriptions in this and other sections of the plan are still overly restrictive and do not fully consider Service and State alternatives to control activities and reduce impacts.

- P 125-128: The State believes the use of commercially permitted cabins remains unnecessarily restrictive. We urge the Service to carefully review our comments regarding Appendix N of the CCP and subsequent related correspondence. Because our previous comments have failed to effect meaningful changes regarding cabin use and seasonal activities, we urge the Service to provide an opportunity for state agencies to discuss this matter. The subject is complex and difficult to address in the limited context of plan reviews.
- P 129-135: Because the Service's guide permitting policies have been subject to change over recent months, we will reserve our comments until we review the final plan unless opportunities are provided to discuss the latest decisions before publication. We encourage the Service to initiate measures to return management of hunting guides to the State.
- P 140: While the plan indicates that upland aircraft landings will be restricted due to critical bear denning and feeding areas, no mention is made of who or how those areas are/were identified, nor are there provisions for consultation with DFG biologists. Formal consultation will be necessary before the State can support such proposed restrictions. We request that a detailed process for identifying and revising restricted areas be developed cooperatively with the State and included in the final plan.
- P 149: We continue to object to the total prohibition of new tent platforms on the refuge. The plan's reasoning does not consider the additional measure of security and possible habitat protection which tent platforms provide compared to tent camping. The decision is also contrary to the provisions of ANILCA Section 1316.

Closing Comments

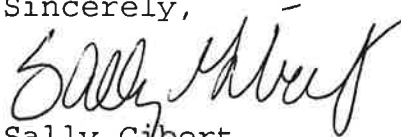
The November 16, 1992 meeting covering selected outstanding issues illustrated that many areas of disagreement were a result of simple misunderstandings rather than significant policy differences. The meeting closed with a gain in positive working relationships and commitments to working together more closely. Given these positive results, we were somewhat disappointed that we did not have an opportunity to review other portions of the internal Kodiak PUMP in which the State has shown a continuing interest.

State agencies were also disappointed with the very short window of review provided on the internal draft of the Alaska Peninsula-Becharof PUMP in light of assurances made at the November 16 meeting that there would be improved opportunities for dialogue early in the development of this plan.

While we certainly do not expect to reach agreement on every outstanding issue in every plan, we believe we have much more common ground than the plans and our consequential written responses would indicate. Given the considerable importance of the land and natural resources to both the state and federal agencies and the many closely related responsibilities, it is imperative that sincere, cooperative efforts in planning for public uses be a high priority. The State is committed to continuing to work with the Service to build and maintain a cooperative working relationship.

Thank you once again for the additional opportunity to provide these comments. The State believes the additional review and dialogue will result in a more justifiable plan for public use. If you have any questions, please feel free to call this office.

Sincerely,



Sally Gibert  
State CSU Coordinator

cc:

Jay Bellinger, Refuge Manager, Kodiak Refuge  
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.

**CSU Distribution List  
Kodiak IRF PUMP  
March 4, 1993**

*Tina Cuning, 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*

*Jeff Otteson, Department of Transportation/Public Facilities, Juneau*

*Paul Rusanowski, Division of Governmental Coordination, Juneau*

*Beth Kertulla, Attorney General's Office, Juneau*

*Cheri Jacobus, Attorney General's Office, Anchorage*

*Connel Murray, Division of Tourism, Juneau*

*Stan Leaphart, CACFA, Fairbanks*