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June 28, 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 U.S. Fish and Wildlife Service document titled, "Alaska Peninsula/Becharof National Wildlife Refuge, Draft Public Use Management Plan" (PUMP), March 1993. This letter represents the consolidated comments of the State's resource agencies.

The State appreciates that the preferred alternative in the PUMP constructively addresses several major concerns identified in our February 1990 comments to the Service. We are particularly pleased to see the following incorporated in the plan:

- * The Service will not restrict public use or access to wildlife concentration areas (rather, such restrictions, if necessary, will be pursued cooperatively through existing State processes wherever possible).
- * Use of jet boats may be continued until and unless documentation of resource damage leads to restrictions by the State, which has jurisdiction over navigable waterbodies and watercolumns.
- * The Service will maintain traditional (pre-ANILCA) and other unrestricted aircraft use in the upland areas of the refuge.

While these are major and positive steps in the development of this plan, significant outstanding issues remain.

DIFFICULTIES WITH THE PLANNING PROCESS

Earlier this year the Service provided the State with an opportunity to review an internal version of the draft PUMP. In order to respond within the minimal time frame provided, considerable staff effort was enlisted on very short notice to provide constructive contributions to the Service for completing an accurate, complete plan. Unfortunately, it is apparent that these comments were not utilized before publication of the draft plan.

The Service and the State have long agreed that internal reviews provide excellent opportunities to update/correct data and address differences in public use issues. Over the years, such reviews have successfully diffused conflicts between State agencies and the Service in the public arena. In this instance, however, the Service did not allow itself sufficient time to incorporate State comments or address outstanding issues before going to press with the draft plan. This has created frustration among those reviewers who made an effort to comment on the internal draft, and has raised questions about the Service's continued commitment to internal reviews. In order for internal reviews to accomplish their objective, the State needs sufficient time to review the subject document, **and** the Service needs to schedule time to address the comments received before publication.

We hope that the Service will use our comments on the draft plan to the greatest extent possible in order to correct information and to explore management actions which would resolve outstanding issues between State agencies and the Service. In this vein, we encourage the authors of the plan to increase contact with local *and policy level* staff of the appropriate State agencies prior to solidifying decisions regarding the final public use management plan. We are also incorporating our February comments into this letter by reference.

We request that references to the adoption of the Comprehensive Conservation Plan (e.g., pages 17-18) also reference any subsequent amendments and the Record of Decision. We observe that outstanding issues in the CCP were raised by the State regarding management decisions such as allowed uses in administrative zones (e.g, minimal management). We continue to request that these issues be recognized and/or resolved in the PUMP.

Access (pages xii-xiii, 35, 39, 63, 120-121, et.al.)

The State does not believe that the Service's approach toward protection of traditional access for traditional activities is appropriate in the context of Sections 1110 and 811 of the Alaska National Interest Lands Conservation Act (ANILCA). Following passage of ANILCA, the Department of the Interior adopted 43 CFR regulations which recognize the use of off-road vehicles (ORVs) and establish procedures for federal agencies to close such access. We are unaware of any studies by the Service in any Alaska refuges to document traditional (pre-ANILCA) access in order to determine types, locations, and uses of ORVs. We, therefore, object to the Service independently, and without study, determining what pre-ANILCA methods and locations of access to allow or prohibit.

To illustrate, the plan does not specify whether the Service has done or intends to conduct studies of traditional (pre-ANILCA) access for the Alaska Peninsula and Becharof refuges. However, the PUMP's preferred alternative proposes to allow ORV use on specific trails and areas and to prohibit traditional uses in other areas. In the 12 years since passage of ANILCA, residents have been told ORV usage is prohibited; which has obviously reduced the continuation of such pre-ANILCA access. Until cooperative studies have been completed to determine when and where ORVs have historically been used on the refuge, we object to what appears to be arbitrary management decisions in the face of clear statutory direction.

We also caution that incidental documentation of access referenced in the Department of Fish and Game (DFG) Division of Subsistence studies is not the equivalent of conducting access studies. Such DFG access documentation certainly contributes to the body of knowledge, but may not provide a complete picture of ORV use on and near refuge lands. The Division of Subsistence strongly encourages that studies specifically designed to identify traditional methods and locations of access be conducted. Similarly, the ORV use guidelines proposed in the preferred alternative and cited throughout the plan can best be evaluated AFTER studies of traditional (pre-ANILCA) access are completed.

The Trails and Campsites and Easements sections on page 25 (and other places where these headings are used), should be replaced with a new section, titled Access, which incorporates the following information and suggestions:

The plan should improve its recognition of existing trails and campsites on the refuges. For example, the remains of old oil development roads occur at several locations on refuge lands, such as the route from Kanatak to Ruth River. To say that "no road ROWs have been formally identified by the State" is not the case. Attached are samples of trails from the Alaska Department of Natural Resources (DNR) 1971 Trail Inventory System for the Egegik area.

There are many 17(b) trail easements crossing private lands to public lands. See the Bristol Bay Easement Atlas (some pages are attached for the Egegik area). The State is working on identifying additional easements. Anything in the easement atlas marked "proposed" should be checked against the Interim Conveyance list at DNR to see if the easement has been granted. (Due to budget cuts and adjusted priorities, a formal request for such research is recommended, and funding for staff time may be necessary). It would be very helpful to have this information available for the public, as well as having an easement map in the plan.

The plan should note that navigable rivers are used as access routes into and through the refuges, and easements may be established at specified locations along the rivers. Members of the public should contact the refuge manager with questions about such access. We suggest putting a contact address/phone in the plan. If the Service wishes further assistance with easements, contact Mr. Terry Peterson, DNR Division of Land (Title Administration), in Anchorage, at 762-2318.

FISH AND GAME MANAGEMENT ON REFUGE LANDS

We disagree with the Service's statement on pages 14-15 that the federal government has any authority to manage fish and wildlife. The federal government assumed responsibility to assure provision of subsistence opportunities for rural residents on federal public lands. However, the Federal Subsistence Board has moved into actual management of fish and wildlife, thereby preempting State management authority which the State is litigating in federal court. For the benefit of the public's understanding, we request this jurisdictional issue be recognized in the plan.

We also request that the plan correctly acknowledge the role of the Master Memorandum of Understanding between the Service and the DFG. Instead, the plan implies that the memorandum "was" in effect prior to 1990. The federal process for allocating subsistence opportunities need not be incompatible with Memorandum.

SUBSISTENCE

The State appreciates the consultation with DFG's Division of Subsistence in preparing the subsistence section (pages 76-85). The section presents an accurate overview of subsistence activities in refuge area communities. The discussion would benefit, however, from incorporation of the following comments.

Page 83, paragraph 2 says a "weakness" of previous subsistence studies was a failure to distinguish between subsistence harvests on and off refuge lands. Division of Subsistence studies rarely made these distinctions, instead focusing on describing the general pattern of subsistence activities in the community. This was considered important for providing a framework within which harvest levels and uses on the refuge could be evaluated in future studies. Instead of implying that previous studies were deficient, this topic should be identified as a priority focus for future studies--in part because of the data needed by the Federal Subsistence Board to make regulatory decisions involving federal public lands.

Page 84, paragraph 4 says a "fairly complete list of areas of the refuges used within the last 30 years emerges" and that an important task of future studies is to understand the role of refuge lands for subsistence. We concur and note that areas used for subsistence purposes may continue to change over time. If certain refuge areas are currently not being used, this does not mean they were not important in the past or will not be important in the future.

Page 84, paragraph 5. We object to the discussion and use of a dictionary definition of subsistence. The uninformed reader should not be led to consider dictionary definitions of "subsistence" as being more relevant than those appearing in ANILCA, nor should "subsistence", as applied in State and federal law in Alaska, be construed as the simplistic concept some might interpret it to be through dictionary definitions.

Page 85, paragraph 1 contains a hypothesis which is testable and should be translated into a field research project. Whether or not local residents will shift their big game hunting activities to other areas if federal subsistence regulations are favorable remains unclear. Study of this topic may yield important information with application to subsistence management on and near refuge lands.

The Service generally uses the term "sport hunting" to characterize all hunting other than subsistence hunting on federal public lands (e.g., page 85). There currently are no "sport hunting" regulations on the books; therefore, the Service should clarify what is meant when using the term "sport hunting."

USE OF MOTORIZED EQUIPMENT

For purposes of clarifying our interpretations of refuge policies regarding this issue, we again note for the record that "traditional" is defined as "pre-ANILCA". In other words, activities which were generally occurring in the area or unit prior to December 2, 1980 are "traditional activities" which are protected by ANILCA and for which traditional (pre-ANILCA) access is guaranteed.

We therefore object to language on page 17 of the PUMP reiterating Alaska Policy Manual RW-16 provisions which are inappropriately applied to Alaska units to limit use of equipment (e.g., chainsaws and generators) to only subsistence users. ANILCA Section 1316 clearly provides such use shall continue on all public lands, and provides specific guidance to follow in restricting such uses in designated Wilderness areas.

This issue was thoroughly discussed, and a resolution policy applicable to the Service was unanimously adopted by the Alaska Land Use Council (ALUC) on November 24, 1987. The State has consistently requested and continues to request that the ALUC policy and existing regulations be accurately reflected in all Service plans and policies.

SPORT FISHING DATA AND GUIDING

The State appreciates resolution of a number of concerns previously expressed regarding use of fish harvest data and limitations of sport fish guides. We are particularly appreciative that the Service has begun to use DFG data in assessing harvest effort on rivers within the refuge. Cooperation and consultation with DFG's subsistence staff, fisheries biologists and managers has reduced previous conflicts that stemmed from different and incomparable data sources.

We also appreciate the Service's decision to delete implementing an artificial and arbitrary cap on sport fishing guides. However, we are concerned that the Service's recent decision to implement its own hunting guide criteria and limitations (rather than adopting the current State program) has the potential to secondarily impact sport fish guiding opportunities. Without a more thorough discussion of this issue, we cannot provide constructive comments. We therefore request more information about the relationship between sport fishing and hunting guide policies since these activities are often conducted by the same individuals. Following receipt of this information, we desire further opportunities to address this issue.

COMMERCIAL USES

We request that discussions of commercial uses generally allowed on refuge lands and commercial activities allowed in Wilderness areas recognize commercial fishing (e.g., page 17) pursuant to ANILCA. Furthermore, ANILCA Section 304(d) provides for the use of motorized equipment and facilities necessary for the exercise of valid commercial fishing rights within the refuges.

CONCLUSION

The State appreciates the opportunity to provide these comments. As previously mentioned, we strongly encourage closer coordination with the local and policy level staff of state agencies during preparation of such plans. In this way we hope to avoid publicly and unnecessarily airing agency differences to the maximum extent possible. However, we also note major improvements in the plan over earlier documents and wish to acknowledge these positive directions. Thank you for the opportunity to review this document. If you have any questions, please feel free to call this office.

Sincerely,



Sally Gibert
State CSU Coordinator

Attachments: Maps from easement atlas and Trail Inventory
(Sent with original letter only)

cc:

Ronald Hood, Refuge Manager, Ak Peninsula/Becharof Refuge
Carl Rosier, Commissioner, Department of Fish and Game
Glenn Olds, Commissioner, Department of Natural Resources
John Sandor, Commissioner, Department of Environmental
Conservation

Bruce Campbell, Commissioner, Department of Transportation and
Public Facilities

Richard Burton, Commissioner, Department of Public Safety

**CSU Distribution List
AP/Bech PUMP
June 28, 1993**

Tina Cunning, 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

Connel Murray, Division of Tourism, Juneau

Dick Swainbank, Department of Commerce & Economic Development, Fairbanks

Colonel Phil Gilson, Fish & Wildlife Protection, Anchorage

Sue Flensburg, BBCRSA, Dillingham

Stan Leaphart, CACFA, Fairbanks

Leslie Kerr, U.S. Fish & Wildlife Service, Anchorage

Helen Clough, Togiak Refuge, Dillingham