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November 15, 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 Draft River Management Plan for the Arctic National Wildlife Refuge. This letter represents the consolidated comments of the State's resource agencies.

Overview

The State recognizes and appreciates the time and thought that the U.S. Fish and Wildlife Service has devoted to this plan. Throughout the river management plan's evolution, numerous revisions have been made in response to State concerns raised earlier in this planning effort. While we do not agree with all aspects of the plan, we appreciate the changes made to date and encourage continued thoughtful evaluation of these remaining comments.

Subsistence

Alternative C--the Preferred Alternative--appears to be least disruptive to continued subsistence uses of rivers and corridors within the refuge boundaries by local residents. The Service will need to carefully monitor the effects of increased aircraft and motorboat access expected in Alternative C and, if necessary, cooperate closely with the State to address conflicts which might occur with subsistence uses.

If the Service has any subsistence-related questions or desires further related information, we encourage contact with Sverre Pedersen (479-6211) or Terry Haynes (452-1531), Subsistence Division, Alaska Department of Fish and Game (DFG), Fairbanks.

Sport Fishing

We continue to disagree with the Service's decision (page 25, paragraph 2) not to include recreational fishing as an issue for discussion in the plan. The Service continues to assert that fishing is only a secondary activity of river floaters. DFG's Division of Sport Fisheries staff assigned to the area advise that, while not the primary reason people go the Arctic refuge, fishing is obviously an important recreational component of many people's experience. Therefore, we believe the importance of recreational fishing in the refuge is understated in the plan.

Recreational fishing will be regulated indirectly by the implementation of this plan because most anglers are associated with commercially guided float trips. Just how this will impact angling opportunities, on a river-by-river situation, is not clear, and should be addressed.

Access

We disagree with the unilateral statement on pages 45 and 60 that "construction of new airstrips is not allowed". This is directly contrary to Title XI of ANILCA and 43 CFR Part 36 regulations.

We appreciate that numerous generic discussions accurately refer to allowed uses of mechanized equipment for access. However, under Alternative C, page 74, the Service incorrectly states that "all-terrain vehicles [are] prohibited for recreation" and will be "authorized only for access to inholdings." Access regulations for Alaska refuges are contained within 43 CFR Part 36 and clearly allow ATVs for subsistence *and traditional* (pre-ANILCA) activities. Failure to document and allow such access amounts to a closure which has not gone through the required procedure for regulatory closure. We request the Service redraft this inaccurate reflection of an allowed access method within the refuge throughout the plan, as appropriate (e.g., page 80 Table for all Alternatives).

User Contacts

We support the Service's decision to limit contacts among commercially-guided user groups on only those few rivers receiving the most use and where use is dramatically increasing. We suggest that the Service evaluate imposing *time limits* for commercial floating parties on the most popular rivers to reduce the number of contacts. This approach could reduce restrictions on the *number of parties*, unless there are other outstanding resource concerns. Allowing ten days to make a 3-day float trip, for example, drives up the number of user-days dramatically, unnecessarily impacting habitat and resulting in more user contacts. We suggest the Service consider trip time limits in lieu of restricting numbers of parties.

Water Rights

The plan should acknowledge the role of the State regarding water rights. Please include the following language on page 62:

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 those 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 National Wildlife Refuge will be managed to maintain the primary purposes for which the unit was established.

In addition to federal reserved water rights, the plan 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 NPS with the senior water rights and save both the State and federal government the cost of a federal reserved water right adjudication. The issuance of state water rights will not preclude the federal agency from applying for its federal reserved 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.

Miscellaneous

The introduction to the list of ANILCA refuge purposes (Page 5, Refuge Purposes) should be slightly modified, as follows, to more closely reflect the introduction in ANILCA Section 303: "The purposes for which the Arctic National Wildlife Refuge is established and shall be managed include..." The list of purposes is not all inclusive; as written, the plan fails to recognize other purposes for the benefit of the public's understanding.

We note the sensitivity with which the Service addresses the dispute with the State of Alaska over ownership and management of navigable waters within the 1943 federal land withdrawal (pages xv, 62, and 63). To benefit the public's understanding of this issue, the only suggestion we offer is adding the underlined and deleting the bracketed phrases in the following statement on pages xv and 63: "If the courts rule in favor of the State, Service restrictions on the disputed lands and waters may be continued or modified by the State [or they may be modified]."

The section discussed on pages 19-20, Wilderness Recreation Values of the Refuge, should include recognition that ANILCA amended the Wilderness Act's application to Alaska refuges. Similarly, the discussion on page 57, Applicable Laws, paragraph 3, should include "as amended by ANILCA". Existing refuge laws, regulations, and policies are modified by ANILCA provisions.

For the purposes of the discussion on page 21 regarding "Sport Hunters" we suggest that hunters be compared with "other recreationists" or "non-hunters". Sport hunting is also considered a form of recreation. This discussion and the preferred alternative should also clarify that commercial (guided) hunting would not be affected by the proposed restrictions unless they were also floating the subject rivers.

Page 60, paragraph 2. Regarding compatibility, we suggest noting that the Service and DFG reached an agreement that compatibility criteria would be cooperatively developed.

Page 83, item 4. The results of the proposed survey could also be beneficial to state agencies in acquiring desired information. The Department of Natural Resources (DNR) and DFG have requested an opportunity to participate with the Service in the design of the proposed survey form.

Appendix A. Delete the information included on pages 139-141 and replace with the more current Fact Sheet on Generally Allowed Uses on State Land, enclosed.

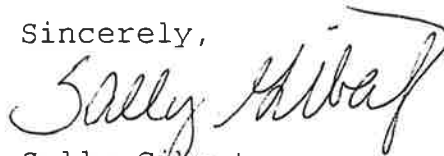
Allowed Uses

The State continues to be concerned that the plan's discussion of issues and options (pages 37-56) frequently refers to management decisions made in the Comprehensive Conservation Plan (CCP) or to interpretations of the Alaska National Interest Lands Conservation Act (ANILCA) which the State believes to be incorrect. The State objected to a number of specific management decisions in the CCP (e.g. cabin construction and use of mechanized equipment), as well as its portrayal of ANILCA provisions. We are not reiterating each of these problem areas because they have been addressed on numerous occasions in earlier forums or correspondence (State letters dated April 25, 1988 and

November 4, 1988). We point this out so that our silence on these longstanding issues is not construed as concurrence with all the background information presented in this document.

Thank you for the opportunity to provide these comments. If you have any questions, please feel free to call this office.

Sincerely,

A handwritten signature in cursive script that reads "Sally Gilbert". The signature is written in dark ink and is positioned above the typed name.

Sally Gilbert
State CSU Coordinator

cc:

Phil Garrett, Acting Refuge Manager, Arctic Refuge
Carl Rosier, Commissioner, Department of Fish and Game
Harry Noah, 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
John Katz, Governor's Office, Washington, D.C.