

STATE OF ALASKA

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June 9, 1994

Mollie Beattie
Director
U.S. Fish and Wildlife Service
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Ms. Beattie:

On behalf of the State of Alaska, we urge you to evaluate and reconsider the U.S. Fish and Wildlife Service's decision to implement the O'Malley Creek bear viewing program, accompanied by major public use closures, on the Kodiak National Wildlife Refuge in Alaska. The State is supportive in concept of bear viewing areas on federal lands *when developed in partnership with the State*, particularly the Alaska Department of Fish and Game. For several years, however, we have sought such a partnership approach with the Service at the regional level -- without success. Given your leadership role in fostering effective cooperative working relationships, we seek your assistance in delaying this action and setting up a dialogue to address our concerns.

Background

On May 11, 1994, the Service published interim regulations in the Federal Register announcing intent to close nearly 4,000 acres in the vicinity of O'Malley Creek on the Kodiak Refuge to all forms of public use and occupancy from June 25 to September 30, 1994. The only public use allowed during this period will be the guided clients of a bear viewing concessionaire. This regulation is temporary, although it is accompanied by a proposed rule which would implement this same closure on a permanent seasonal basis.

State Concerns

For the O'Malley Creek bear viewing program, State agencies were provided with a few opportunities under the National Environmental Policy Act for input, while the Service proceeded with all aspects of the project independently. Instead, the Service should have worked cooperatively with the Department of Fish and Game (DFG) which has the responsibility for management of fish and wildlife.

As a result of this lack of effective dialogue, a number of outstanding concerns remain, including:

- * Lack of a cooperative scientific forum to evaluate wildlife data and the range of interpretations among state and federal wildlife biologists;
- * Unnecessarily broad impacts to existing uses (e.g. hunting, hiking and fishing);
- * Questionable appropriateness of using a concessionaire to manage public resources; and
- * Disputed land status/management jurisdiction.

These concerns stem primarily from Section 1314 of the Alaska National Interest Lands Conservation Act (ANILCA), which affirms the State's authority to manage wildlife on refuges in Alaska; Section 1110 of ANILCA and its implementing regulations, which provide guidance concerning when public access may be restricted based on "resource damage"; and the Master Memorandum of Understanding between the Service and the DFG (MMOU).

These issues should have been cooperatively addressed by the Service and the State prior to implementation. *They are not necessarily irreconcilable.* The State is ultimately concerned with the poor precedent this action sets for management of other wildlife refuges in Alaska. The Service's unilateral implementation of the O'Malley Creek bear viewing program flies in the face of ANILCA, Service policy, and the MMOU, all of which affirm cooperative working relationships. In fact, the Service's inflexible approach has placed an additional strain on existing cooperative mechanisms and raises questions about the value of the existing MMOU.

A Solution

We recognize that the bear viewing program is already in place for this year. We would like to work with you and Service representatives in Alaska to explore ways to improve implementation this year. More importantly, we request a delay in the rule-making procedures for the permanent public use closures to discuss and resolve the points raised above.

In formal comments submitted regarding this bear viewing program and the related Kodiak Public Use Management Plan, the State has offered a number of specific suggestions designed to rectify the difficulties we have identified with the program. These include

- * initiation of a cooperative assessment of alternative bear viewing sites that have fewer impacts on existing uses, and/or provide opportunities for Native corporation involvement in commercial uses of the refuge pursuant to Section 1307 of ANILCA.

- * minimizing the size of the area closed to general public use; and
- * working with the Boards of Fisheries and Game to develop alternative regulations which would meet Service management goals.

The State has grown increasingly frustrated with the Service's responses to our concerns, which have typically been limited to periodic formal correspondence taking issue with our statements and a few stiff meetings. While we recognize there will be differences in agency mandates and some issues may boil down to an agreement to disagree, we have not been given the opportunity to address the issues in a true partnership forum.

If this bear viewing program continues to move forward without modification in either content or process, the State will have to consider other remedies. We sincerely believe that other courses of action would not be in best interests of the State or the Service when simple communication is the true remedy.

Thank you for your consideration of this request. We will be contacting you shortly to discuss how the Service and State may proceed to reestablish an effective dialogue.

Sincerely,



Paul C. Rusanowski, Ph.D. Director
Division of Governmental Coordination



Carl C. Rosier, Commissioner
Alaska Department of Fish and Game

cc:

George Frampton, Asst. Secretary for Fish and Wildlife and Parks
Dan Sakura, Special Assistant to the Asst. Secretary for Fish and Wildlife and Parks
Walter Stieglitz, Regional Director, USFWS
Honorable Ted Stevens, U.S. Senate
Honorable Frank Murkowski, U.S. Senate
Honorable Don Young, U.S. House of Representatives
Harry Noah, Commissioner, Department of Natural Resources
John Katz, Governor's Office, Washington, D.C.