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July 11, 1994

Helen Clough  
U.S. Fish and Wildlife Service  
1011 East Tudor Road  
Anchorage, AK 99503

Dear Ms. *Helen Clough*:

To assist in your efforts to set up a cooperative planning process for the Kisaralik River in the Yukon Delta National Wildlife Refuge, the State of Alaska is providing additional comments on the draft river management plan released earlier this year.

The primary difference between current management of uses by the Service and the preferred alternative in the draft plan is a new provision that allows limited guide use of the river. We continue to believe that this issue does not warrant a complete river management plan. We recognize, however, that the Service has decided to proceed with this plan. We appreciate that the Service has acknowledged the necessity of involving the State in the decision making process by virtue of the state-owned navigable waterway and the primarily state managed fisheries. While the Service has admirably opened a dialogue with the Department of Natural Resources, we urge that the Department of Fish and Game (DFG) also be actively involved.

**General Intent**

The plan primarily "proposes policies that would apply mainly to river guides" (page 1). We realize this is currently the primary issue since no guiding permits have been issued despite an increasing demand. There are, however, problems in the approach which warrant further consideration. For example, strict limitations on guides on one river facilitates increasing pressure on other rivers in the region.

We conceptually support the idea of developing and regulating sustainable guided recreational use of the river in order to maintain the outstanding attributes of the river corridor. We do not support restrictions or permit requirements by the Service for non-commercial river recreationists unless it can be shown that such use would have detrimental impacts which cannot be addressed

through other management actions. We also do not believe commercial use permits are an appropriate vehicle for implementation of restrictions on camping and access. We would prefer to see alternative management options such as voluntary coordination among guides to minimize conflicts. Where necessary, promulgation of regulations is a more publicly accountable method of regulating public use than through guide permits. We also question whether the Service's authority to permit guides can be extended from refuge uplands to the use of the state-owned bed of the river.

Although the preferred alternative indicates "guiding" will be allowed, no clear distinction is made between guided fishing, guided sightseeing, guided hunting, and other uses which may or may not have varying degrees of conflicts with existing uses and may be more appropriately controlled through seasonal and spatial limitations, cooperative or voluntary efforts, and/or education. It is important for the Service to first assess **impacts**, rather than focusing on specific user groups.

The plan does not specify the term length of guiding permits. This would be useful information for the affected public, as would a discussion of how the public can provide input to the Service if guides do not adhere to the permit standards. We also reiterate previous concerns that the Service not use permits to regulate fisheries (e.g., award permits based on an applicant's intent regarding harvest) which is implied on page 20, Guiding, third "\*": "All guided float use would be allocated to outdoor adventure trips that would not restrict fishing but fishing would not be the primary function of the trip." To the extent that this is a Service effort to manage fisheries, the State does not support this approach. The State, which is responsible for fisheries management, has tools which should be cooperatively pursued by the Service and DFG.

In light of references to guided and float "parties", we suggest the term "parties" be defined in the *Abbreviations and Definitions* section or replaced by a more neutral term (such as "groups" or "visitors") to eliminate unintended meanings. The term "guided" should also be defined so it is clearly distinguished from "transporter" or "outfitter".

Other than the provisions for guiding, the only differences between Alternative A (current situation) and the Preferred Alternative seem to be cosmetic. In practice, there appears to be no difference in actual refuge management activities. If this is not the case, the plan needs to be much clearer in distinguishing the differences between the alternatives.

### Camping and Other Public Use Closures

Boating, fishing, hunting, and other public use activities have occurred in the Kisaralik River drainage long before establishment of the refuge. Wherever possible, Congress intended that these existing uses should continue. Unfortunately the stated intent gives the impression that, upon documenting impacts of those public uses, the Service intends to eliminate them. As the Service improves its fish and wildlife data base and as uses increase in the area, we urge the Service to work cooperatively with State and private landowners, and other interest parties to reduce impacts without instituting public use closures and use limits.

The Service's orientation is illustrated on page 16, paragraph 7 and on page 18 under Fish and Wildlife: "If significant impact to nesting raptors and/or harlequin ducks is detected, the refuge would take appropriate actions such as different public information, additional camping closures, and further limits on guided and/or non-guided use."

It is not clear whether there are criteria for determining "significant" impact to trigger closures and public use restrictions. Similar language occurs throughout the "comparisons of alternatives" discussions on page 26 which profess numerous potential wildlife concerns and possible closures due to raptor nesting, harlequin duck numbers, and bears.

Page 5, Purpose of and Need for Action: Paragraph 3 states that in 1979 an estimated 3 to 4 groups floated the river and in 1984, 8 to 10 groups floated the river. What use occurred during 1984-1988, which is the period that refuge staff decided not to issue permits? What is the seasonal pattern and duration of these trips?

Paragraph 4 describes that adjacent Togiak Refuge river use increased four fold between 1981-1984, including guided float trips. Additional data and context are missing from this discussion which would provide a clearer picture of the actual demand for guided float opportunities between the two refuges. With restrictions on both refuges, it is not legitimate to imply that a total of all inquiries equals demand when individuals may be looking at more than one river or refuge for a guiding opportunity. Is there any indication that Togiak use would be "significantly" reduced if Kisaralik opportunities had been available?

Page 18: The plan states: "The guided recreational season would begin August 1st." This is the only place a date is specified--does this mean recreational floaters are not restricted to a season but guided floaters are? If so, we are concerned that this could condense nonlocal users on the river during a short period of river use which may in turn cause the Service to pursue further use limits to reduce impacts on resources and visiting experience.

Page 19, Public Use, Paragraph 4: "If visitor conflicts occur, the refuge would work with the state to establish guidelines for both state and federal lands. Time limits for campsite occupancy might be considered." The State already has campsite occupancy limits on state lands, including gravel bars in state navigable waterways such as the Kisaralik.

The plan's general orientation toward camping that *there may be a problem someday so we'll monitor it and as soon as it is a problem we'll close the activity* seems unnecessarily restrictive. Such a philosophical approach is exemplified on page 19: "The refuge would collect data on bear sightings and visitation at campsites. The refuge would monitor/investigate bear human conflicts and take action if one or more sites have an increased frequency of incidents. Actions could include closing campsites, requiring better food storage, or providing additional public information." Public information, food caches, and other methods should be applied in advance in order to reduce potential bear/human conflicts.

Since such restrictions cannot be applied by the Service to State or private lands (ANILCA Section 103(c)) we appreciate the Service's recognition that a cooperative river management process is a more productive method of addressing potential public use conflicts.

### Public Involvement

We are encouraged that the plan confirms past commitments to public and State involvement in preparation of step-down plans which implement the comprehensive conservation plan. We request that statements (page 13) regarding revisions and amendments also include confirmation of public and State involvement in the revision and amendment processes. That may be the intent but is not clearly stated.

The summary statements (pages 14-15) of the Preferred Alternative contain several provisions which we strongly endorse, such as annual public meetings to review activities on the river and address concerns. The public information provisions in the preferred alternative may reduce potential conflicts between visitors and local residents. We request the plan: (1) specify how conflicts and other concerns raised at these meetings would be addressed; (2) specify how the State's involvement would similarly be included; and (3) discuss how linkages will be established between related implementation plans.

Page 20, Public Information: The "public information materials" proposed in the second "\*" primarily address fish and wildlife uses and local residents. Preparation of such materials would hopefully include participation of state managers and subsistence specialists. In the third "\*", additional explanation of how the

videos and training will be used in the public information program would be beneficial; e.g., who will be the target audience and how will they be made available?

### Objectives

The goal statement which precedes the objectives makes clear the commitment to "provide high quality fish and wildlife oriented public use opportunities", and the written objectives specify recreation will be provided. We request that either the goal statement or the objectives be amended (pages vii and 6) to make it clear that the Service supports the continuation of recreational fishing and hunting activities in the Kisaralik River corridor. For example, after "opportunities" in the quote above, insert: "including sport fishing, hunting, and viewing".

As presently written, the public use opportunities in the objectives and goal statement do not specifically recognize consumptive recreational uses.

### Fish and Wildlife Management

With one exception, we are encouraged by the accurate discussion which has resulted from revisions since we last reviewed the plan. Management of fish and wildlife in Alaska remains vested in the State of Alaska, consistent with the State constitution and reconfirmed in the Alaska National Interest Lands Conservation Act (ANILCA) Section 1314. The Master Memorandum of Understanding (MMOU) between the Service and Alaska Department of Fish and Game defines the roles and cooperation of the agencies. The plan (page 12) correctly refers to the MMOU. In fact, meetings between the Commissioner of the Department of Fish and Game and the Service's Regional Director have confirmed their intentions to continue cooperating consistent with the terms of the MMOU. We request the MMOU be printed in the Appendix so that it is readily available to assist readers understanding these roles who might not have access to the agreement or the CCP.

Page 12, FISH AND WILDLIFE MANAGEMENT . . . , paragraph 2: This paragraph contradicts relatively accurate discussions of federal and state jurisdictions which occur in the remainder of the section. We request this paragraph be rewritten to correctly describe the State's "management authority" (separate from harvest allocation authorities) for fish and resident wildlife on ALL lands in Alaska.

Whether or not ANILCA granted any harvest or management authority to the secretaries of Interior and Agriculture and whether such action preempts the state's management authority is currently in litigation (*Alaska vs Babbitt et al*). Recognition of this lawsuit should be addressed in the plan so that future users of the plan know to track the outcome of that case.

Page 13, FISH AND WILDLIFE MANAGEMENT . . . , paragraph 3: The second sentence should specify that the federal board rulemaking applies only to federal public lands. This clarification is important, even though the scope of federal board authority is noted in the previous paragraph.

**Subsistence (pages 34-37)**

We appreciate your effort to meet with DFG's Subsistence Division staff in Bethel to address concerns raised in our July 1993 review of an earlier draft of the plan. This coordination has improved and strengthened the plan. Remaining or new concerns regarding subsistence issues are discussed below.

The plan does not--and perhaps the Service believes it cannot--address probable uses in September of the lower river by rafters and by aircraft picking up clients off the lower river. Such uses may conflict with local moose and caribou hunting activities and be perceived locally as affecting animal movements.

Page 43, Subsistence, first paragraph: Please delete "probably" from the fourth sentence. Ice fishing does occur along the river and is mentioned as a winter activity in the fourth full paragraph on page 44.

Page 51, Economy, paragraph 2, final sentence: Commercial fishing comprises only an estimated 16% of the community income in Kwethluk, according to the Coffing 1991 study cited in the bibliography. We recommend the sentence be rewritten to read: "Commercial fishing is a major [or an important] source of income . . . ."

**Fisheries**

The State appreciates that the plan's discussion of fisheries includes references to the Service's Fisheries Management Plan, which clearly confirms that the State is the fisheries manager. We request that the discussion on pages 38-41 be similarly clarified. As currently written, the State's role is rarely mentioned.

The Fisheries Management Plan is referenced (page 39) regarding its call for specific studies on subsistence uses, including household surveys. The river management plan should indicate whether additional information relevant to recreation and river management will be needed which should be sought simultaneously in the household surveys of subsistence uses. If proper linkages are not made between various implementation plans, the public is at risk of being unduly burdened by researchers. We also request the plan commit to consultation with DFG's Division of Subsistence regarding any planned subsistence studies associated with this and other refuge management plans.

Page 38, EXISTING SITUATION, paragraph 2; The first sentence is incorrect. Scheiderhan's average escapement cited by the Service in 1988 was the average escapement aerial index from 1960 - 1986, not "since 1960".

Page 39, paragraph 1; The first sentence is incorrect. We suggest the following rewrite: *The Kisaralik River is one of six first order tributaries to the Kuskokwim River on the Refuge with a chinook salmon run.* The point is that in the Kuskokwim drainage there are more than "five rivers . . . with a chinook salmon run". Even in the Kuskokwim drainage on the refuge, there are more than five rivers and creeks supporting chinook salmon runs. North to south, a minimal list of significant waterways includes: Eek River, Kapon Creek, Kwethluk River, Alolikutak River, Crooked Creek, Fork Creek, Canyon Creek, Kushluk River, Kasigluk River, Columbia Creek, Kisaralik River, Quicksilver Creek, Tuluksak River, Otter creek, Fog River Slate Creek, Bear Creek, Granite Creek, and Aniak River with assorted tributaries. This list excludes waters with small chinook populations.

Page 39, Paragraph 4; The current sport fish regulations for chinook salmon are incorrectly represented. The 1993 regulations are: chinook salmon - 1 per day, 1 in possession, no size limit.

### Wildlife

#### **Bears:**

The plan acknowledges (page vii) "No defense of life & property bear kills reported in 10+ years". However, the plan contains numerous statements and implications that bear/human conflicts are a major concern.

For example, the preferred alternative (page vii) synthesizes fish and wildlife plans: "collect data; monitor bear human conflicts & take necessary action." As another example, the "environmental consequences" section on mammals builds a case of potential scenarios and concludes: "This type of bear would most likely wind up getting killed by wandering too close to a campsite." Throughout each of the proposed alternatives, intent to collect data on bear/human conflicts is mentioned (e.g., pages 16 and 19) but lacks cooperative evaluation with DFG and lacks recognition of steps that could be taken to avoid inappropriate bear/human contacts.

Page 14, 6th \* and Page 33, paragraph 1, Mammals: The brown bear study noted in the last sentence is a cooperative effort between the Service (Togiak and Yukon Delta Refuges staff) and DFG. The study will determine the density of bears in a portion of the western Alaska Brown Bear Management Area, using capture/release techniques. DFG's role and the purpose should be recognized.

**Caribou:**

Page 33, paragraph 3: Replace the last sentence with updated information. The current DFG estimated caribou population is 3700 minimum, found during a late November 1993 survey. The caribou herd is estimated as growing approximately 14% annually since 1991.

**Waterfowl:**

The emphasis and direction regarding harlequin ducks in this plan compared to the June 1993 draft is considerable although there is apparently no new data to support such a change. For example, the 1993 plan on page 29 discusses possible disturbance to waterfowl broods and states: "Present float use is low and no information is available that suggests problems exist" and concludes: "The cumulative effect of the current river recreation along the Kisaralik on these species is probably insignificant at current population levels."

In contrast, page 33 of the current plan advises that the harlequin duck is identified as a possible candidate for the Endangered Species list. Page 35 alludes to levels of rafting activities affecting duck populations and the importance of harlequin ducks to the area, but gives no documentation of disturbance problems. Similarly, page 21 refers to harlequin duck surveys and possible surveys to determine impacts of recreation on harlequin broods, hinting at more public use closures.

**Raptors:**

Page 8, Public Information: The first sentence states: "No specific public information is available about the river, its resources, and appropriate visitor behavior." We suggest that the Service recognize and include intent to provide information on legal restrictions regarding activities around raptor nests. For example, the Bald Eagle Protection Act stipulates it is illegal to flush a golden eagle from its nest.

Page 15, paragraph 3: What species of nesting raptors would be monitored by aerial surveys?

Page 32, Wildlife, Raptors, paragraph 1. What nine species are known to nest in the river corridor and what other five species are suspected of breeding in the area?

Pages 32 and 33, Raptors: Other nest disturbances should be considered when evaluating nest productivity. What are the referenced numbers of golden eagles preying upon?



Page 34, Environmental Consequences, Raptors, Paragraph 1: Federal and state laws already exist for most of the concerns discussed in this section. For example, a federal permit is required by the Endangered Species Act to climb to film or look at nests. Camping close enough to a nest to prevent a parent from feeding and tending to its young is considered wildlife harassment, illegal by state and federal law. Contrary to the statement, information is available on golden eagles (McIntyre, Ambrose), gyrfalcons (Roseneau, Bente), and rough-legged hawks (Swem).

Page 34, Raptors, paragraph 3: The percentages given in this section tend to suggest there were studies conducted. Is the information given in this section the results of a study? For example, how many observations were made to arrive at an 83% disturbance reaction? The citations given in this section are located on page 59 in the "References". McCaffery, Brian J n.d. 1992b is a memorandum documenting Kisaralik River raptor update. McCaffery, Brian J n.d. 1993b. is a memorandum documenting a raptor survey done along the Kisaralik River. Were these figures from a survey or a study?

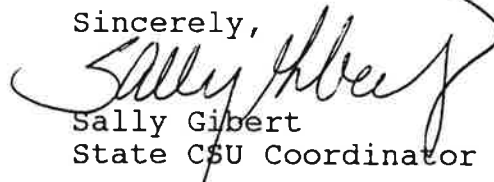
Miscellaneous

Pages 10-11: The maps are difficult to read. State land and waters should be included also.

Page 47, Recreation, Existing Situation: Trapping should also be mentioned as an activity which occurs in the area. Given that this section is oriented toward recreation uses, the reference to trapping should note that it is for subsistence, commercial and recreation purposes.

Thank you for considering these comments as you develop a cooperative planning process for the Kisaralik River. If you have any questions, please feel free to call this office.

Sincerely,



Sally Gibert  
State CSU Coordinator

cc:

Carl Rosier, Commissioner, Department of Fish and Game  
Harry Noah, Commissioner, Department of Natural Resources  
John Sandor, Commissioner, Department of Environmental  
Conservation

**Distribution List**  
**Subject of Distribution**  
**July 12, 1994**

*Tina Cunning, Department of Fish & Game, Anchorage*

*Terry Haynes, Department of Fish & Game, Fairbanks*

*Priscilla Wohl, Department of Environmental Conservation, Anchorage*

*Ric Davidge, Department of Natural Resources, Anchorage*

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