

# STATE OF ALASKA

**SARAH PALIN, Governor**

## ANILCA IMPLEMENTATION PROGRAM

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April 15, 2007

Robin West  
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Dear Mr. West:

The State of Alaska reviewed the February 26, 2007, Draft Compatibility Determinations (CDs) for the following refuge uses on the Kenai National Wildlife Refuge:

Bear Baiting	Miscellaneous Uses
Camping	Natural Resources Gathering
Environmental Education, etc.	Powerboats and Aircraft
Fishing	Research & Scientific Studies & Surveys
Forest Products Use	Snowmachine Use
Hiking, Walking, Skiing, etc.	Subsistence
Hunting	Trapping
Miscellaneous Commercial Uses	

This letter represents the consolidated comments of the State's resource agencies. We provided extensive informal comments on these draft CDs on January 2, 2007. We appreciate your efforts to address some of those comments. We understand the Refuge was anxious to get these CDs out for public review and therefore deferred addressing most of our substantive comments until after the public comment period; therefore, these substantive comments are further developed in this formal comment letter. Consistent with requests from the Regional Office, we are refraining from including remaining non-substantive comments.

### **General Comments Addressing All Kenai CDs**

#### **Refuge Purposes**

A generic discussion of Wilderness purposes is included in each CD. The last sentence notes:

*While these purposes do not apply to the remaining approximately 700,000 acres of Refuge lands that are not designated as wilderness, we must consider the effects of uses on any Refuge lands that might affect wilderness areas.*

The State does not disagree with this statement on its face; however, we caution against using this intent to create de facto buffer zones, to indirectly extend wilderness purposes beyond designated wilderness areas, or to manage non-wilderness under a wilderness mandate.

## **Bear Baiting**

### **Description of Use**

Regarding the fourth paragraph, we attribute the competition for bear baiting permits on the Refuge is due to the paucity of accessible areas with reasonable opportunity for potential success. Much of the refuge lands available for bear baiting are not well-suited to this activity because of poor access, difficult terrain or unfavorable habitat. To address this comment, we suggest the following revision to the sixth sentence:

*This is not because of limited permits, because the majority of open areas are not taken each year, but is rather based on hunters wishing to secure those limited areas having better habitat, terrain, and get their favorite areas. ~~Such areas may be known to them from past experience, or are more favorable because of easier access.~~*

### **Justification**

Additional justification for this use is supported by 50 CFR 32.2(h), which specifically allows bear baiting by regulation.

## **Camping**

### **Description of Use**

The last sentence in the third paragraph indicates that use of commercial fly-in fishing camps “has tapered off in recent years and is relatively uncommon.” The implication is that such use tapered off voluntarily. We request further explanation consistent with an Alaska Department of Fish and Game (ADF&G) study (Regnart, 1993) indicating that the expanding aircraft closures related to swans have reduced the opportunities for commercial air taxis to land in the Refuge.

### **Stipulations Necessary to Ensure Compatibility**

Stipulation #3 states that no part of the tent may extend higher than four feet above the floor except the fabric, door frame, ridge pole and support frame. We request an explicit clarification that this does not include a stovepipe or an antenna for radio communication. If this is a standardized regional stipulation then we request modification to prevent unnecessary enforcement actions.

## **Environmental Education, Interpretation, Wildlife Observation and Photography**

### **Description of Use**

We request the reference to the top five reasons people travel to Alaska described in the second paragraph be accompanied by a citation referencing the specific “tourism industry” source.

## **Fishing**

This CD relies heavily on ADF&G data (harvest and escapement), albeit without reference. Some of the information presented appears to be out of date. The most recent information on the Kasilof, Kenai, and Russian rivers relative to recreational fisheries and in-river returns is available on the web via the most recent annual management report at:

<http://www.sf.adfg.state.ak.us/FedAidPDFs/fmr04-17.pdf> (See Tables 8 & 9)

Harvest information through 2005 from the Statewide Harvest Survey may be obtained at:

<http://www.sf.adfg.state.ak.us/Statewide/ParticipationAndHarvest/index.cfm>

## **Description of Use**

The ninth paragraph discusses reasons for increases in rainbow trout catch. In addition to strategies in directed harvest of rainbow trout (including use of catch and release), increases in rainbow trout catch are also related to an increasing trout population due in part to changes in salmon management (increased sockeye escapement levels) that provide additional food for trout as well as other resident species. (Personal communication, Barry Stratton, 2007)

The discussion in paragraph 13 concerning the number of guides operating within the refuge references “*upwards of 100 guides*,” while the first paragraph of the Availability of Resources cites “*hundreds of fishing guides*.” These two sections need to be reconciled.

## **Anticipated Impacts**

This section seems to overplay the potential impacts of fishing. The sustained yield principle, under which fish are managed by the State, anticipates the needs of wildlife, and is taken into consideration when developing fishery management plans. This includes escapement goals and the need to provide for genetic diversity throughout river systems. We are not aware of any resident species on the Kenai Peninsula that are harvested to the point of concern, as this paragraph tends to indicate. We request AFD&G be notified of harvests that are impacting fish species.

## **Forest Product Use**

Although subsistence use is not a listed purpose of the Kenai Refuge, it is an ANILCA purpose of federal public lands generally. In addition, the Federal Subsistence Board has identified rural residents who qualify to conduct subsistence activities on federal public lands in Units 7 and 15, which includes land within the Refuge. It would therefore be appropriate to include a discussion of eligibility requirements for subsistence harvest of forest products into the appropriate determination(s), including recognition that certain permit, area and fee requirements described in this CD would not be applicable. If this use is not an issue of concern to managers at this time (e.g., no subsistence user has engaged in collection of berries or house logs on the refuge, or such activities have only occurred intermittently and not raised management issues), then we recommend also including a brief explanation to that affect.

## Hunting

### Anticipated Impacts of the Use

We request a change to the following statement in the sixth paragraph, "*DLP take of brown bears...is most common during hunting season when more people are in the backcountry.*" This is no longer a true statement. The last 5 years (2002-2006) 63% of the DLP kills occurred before the Aug/Sept hunting season. Furthermore, only 24% of all DLPs the last 5 years were hunting related. (Personal communication, Jeff Selinger, 2007)

Wolverine: The Alaska Department of Fish and Game has no data that suggest wolverine populations may be decreasing.

## Miscellaneous Commercial Uses

### Anticipated Impacts of the Use

The operation of the Russian River Ferry is described as having "*significant effects to the area and Refuge resources.*" We recommend using a description that does not include the word "*significant,*" as it has legal implications that would imply necessitating compliance with the National Environmental Policy Act.

## Miscellaneous Uses

We question whether this CD is realistic in scope or even necessary. We question whether such a broad-based CD can provide adequate guidance to cover all the uses or be able to appropriately assess impacts. Specific, infrequent uses, such as weddings and sled dog races, would most likely require an individually-prepared determination of compatibility, but activities like non-commercial picnicking, swimming, and "*highway use of roads*" may not require such thorough analysis. In lieu of this CD, perhaps a statement in the introduction noting that additional recreational uses would be covered under separate CDs, when appropriate, and may require special use permits, would be sufficiently comprehensive.

### Description of Use

Some of the uses listed in the second paragraph may be more suited to the "*Miscellaneous Commercial Uses*" CD, since they are described as "*commercial.*"

### Stipulations Necessary to Ensure Compatibility

The last sentence overstates the applicability of the minimal tool analysis in Wilderness. It is not appropriate to apply the minimum tool analysis requirement to general public uses already allowed by law without further authorization, such as swimming, beach use, ice skating, highway use of refuge roads or picnicking. We recommend replacing "*proposed uses*" with "*administrative activities*" and referencing the Alaska Supplement to the Minimum Requirements Decision Guide (posted on the web at wilderness.net) for more specific guidance.

## Natural Resource Gathering

Though national regulations prohibit the collection of natural resources, e.g. plant products (50 CFR 27.51), and natural objects, i.e. antlers (50 CFR 27.61), certain considerations are given for recreational activities on Alaska refuges. As stated in the Description of Use, 50 CFR 36.31(a) allows public recreational activities on Alaska refuges so long as they are determined to be compatible. This “open until closed” concept implies that recreational pursuits are authorized solely through a compatibility determination. Several refuges in Alaska (Togiak, Izembek, Koyukuk and Nowitna) currently manage (non-subsistence) berry, nut, and mushroom gathering, as well recognized recreational activities in Alaska, through a compatibility determination. With the exception of the limits placed on recreational collection of shed antlers, we recommend the Kenai Refuge be consistent with the other refuges and allow natural resource gathering for personal use, subject only to a determination of compatibility per 50 CFR 36.31(a). If the Refuge continues to desire a regulation, we recommend a region-wide regulation to ensure consistency for the public.

## Powerboats and Aircraft

### Description of Use

To clarify that both methods of access existed prior to designation of the Refuge, we recommend the following modification to the last sentence of the first paragraph:

*Both activities are extremely popular in Alaska, have traditional use histories that predate ANILCA or the designation of the Moose Range, and have....*

### Availability of Resources

Because the purposes of the Kenai Refuge include compatible fish and wildlife orientated recreation, we request that the Service add recognition of all its purposes in this discussion when evaluating uses. We recommend the following change to the second sentence:

*The Refuge must consider its primary purposes, including conservation and compatible opportunities for fish and wildlife orientated recreation, and must ensure that the uses are as safe as practicable.*

### Anticipated Impacts of Use

This section indicates aircraft and motorboats enable visitors’ easy access to remote areas “...resulting in potential increased legal and illegal harvest of fish and wildlife...” We recommend removing the quoted phrase from the section. An increase in the legal harvest of fish and wildlife is not an impact, and illegal harvest is primarily an enforcement issue.

### Stipulations Necessary to Ensure Compatibility

Aircraft. The last paragraph notes that aircraft restrictions “*have, at least in part, proven successful in protecting trumpeter swans...*” We appreciate the recent modification on this sentence, although it still somewhat misleading. Swan populations have increased throughout

their entire range over the past 20 years; and some of the most productive lakes on the Refuge for swans are not closed to aircraft access.

This same paragraph also raises two significant issues without explanation: the protection of trumpeter swans and the potential or necessity for changes in aircraft-related restrictions. Instead of implying that additional restrictive regulations will likely be necessary, we suggest noting that the relaxation or tightening of regulations concerning aircraft use will first be proposed based upon objective, ongoing analysis of data concerning resource-related issues.

## **Research and Scientific Studies and Surveys**

### **Stipulations Necessary to Ensure Compatibility**

Several of the Compatibility Determinations, including Research and Scientific Studies and Surveys, include “*Regional Refuge Stipulations*” designed to describe conditions necessary to provide for compatible uses. Several of these stipulations would benefit by clarification or adjustment to provide improved direction for managers, other agency administrators and the public. We request the opportunity to work with the Service to identify and address these relatively minor concerns in an effort to provide what would likely be very useful direction for refuge managers. This effort would be consistent with our longstanding hope for more regional consistency in compatibility determinations and associated stipulations for administrative and public uses, except where local conditions necessitate reasonable adjustments. Examples of specific comments are attached. We will follow up with regional office for additional discussion.

## **Snowmachine Use**

### **General Comments**

Although we support the Service’s intent to comprehensively study snowmachine use and its potential impacts in the Caribou Hills area, we have concerns about portraying the study as a stipulation necessary to ensure continued compatibility. Alternatively, we request that such a study determine whether there is a need for reasonable regulation under Section 1110(a) to effectively manage this legislatively-authorized use. The proposed CD already finds the use compatible. The question is not whether the use will continue to be compatible but how the compatible use will be managed to protect Refuge resources. We are also concerned about potential implications should the study not be completed for lack of funding or other reasons. Could this mean that snowmachine use in the Caribou Hills (or the entire Refuge) will automatically be proposed for closure under ANILCA Title XI regulations at 43 CFR Part 36? In our view such a proposed closure based on a lack of information would not meet the legal requirements of the applicable closure procedures:

*The appropriate Federal agency may close an area on a temporary or permanent basis to use of aircraft, snowmachines, motorboats or nonmotorized surface transportation only upon a finding by the agency that such use would be detrimental to the resource values of the area. (Section 36.11(h))*

We also object to including what is essentially a placeholder condition with open-ended implications. Once the study, CD, and (if applicable) regulatory process is complete, any resulting restrictions can, if appropriate, be added as new stipulations, similar to those regulations already included as stipulations in this and other CDs. Since a CD may be revised at any time, making the study a required stipulation is unnecessary.

As previously stated, we do not object to studying the extent and effects of snowmachine use in the Caribou Hills. In fact we much prefer this approach over relying on anecdotal information or studies of snowmachine use elsewhere that may have little applicability to the Kenai Refuge. We also strongly urge the Service to consult with the State and other stakeholders on the design and implementation of this study. Achieving good buy-in on the scope and conduct of the study will greatly simplify implementation of any follow-up management actions, including possible regulations if appropriate.

We also have a general concern about the overall tone of the snowmachine CD, including an apparent lack of objectivity when describing the history, use, and impacts of snowmachines. The apparent negativity harms the intent to provide a straightforward report on the history of use and possible impacts from a factual perspective. We do not dispute that snowmachines have the potential to cause impacts under certain circumstances, but the current tone of the CD mixes factual information with inappropriate narrative. Examples are provided throughout the specific comments below.

#### **Description of Use**

This first paragraph notes that snowmachines were first authorized in 1966 and provides a quote explaining the rationale for the authorizing regulation. We suggest deleting this quotation as it implies the original decision to allow snowmachines was at worst arbitrary, and at best a concession to appease a user group to garner support for the refuge. The CD notes this was only part of the 1966 justification, yet the theory is repeated within the paragraph and no alternative viewpoints are presented.

The last sentence of the first paragraph about “*growing concern over potential impacts*” is vague and inappropriately narrow in what is supposed to be a basic description of use. We request this sentence be deleted for continuity. Deleting this reference will not diminish the fact that the refuge lacks studies on the long term impacts, if any, of snowmachine use.

The second paragraph addresses changes in snowmachine authorizations and closures between 1971 and the present. This is the appropriate place to mention that ANILCA authorized use of snowmachines on the Kenai Refuge, including in designated wilderness in 1980.

The last sentence in the paragraph following the list of annual seasonal openings notes that “*...the Refuge Manager’s annual decisions on this matter are subject to considerable social pressure and discussion*.” This implies that social pressure may influence a straight-forward determination of physical conditions, and further implies that snowmachine users as a group may not be concerned about the affects of using snowmachines without adequate snow cover. We

recommend the following alternative: “...the Refuge Manager’s annual determinations of adequate snow cover are monitored with interest.”

The next lengthy paragraph about the nature of snowmachine use on the Refuge and segue to ANILCA traditional activities is largely problematic in the State’s view. The paragraph says “recreational enjoyment of the snowmachine itself” and “practicing different maneuvers... has raised questions about the legality” of this activity. First, we object to the insinuation that recreational snowmobile use itself may be illegal. Can the statement above be extrapolated to mean that the act of cross-country skiing itself and “practicing different maneuvers” disqualifies this other winter access mode from whatever legal protections the author(s) are thinking of? Compare the above statement about snowmachines with a parallel statement in the CD for “Hiking, Walking, Skiing,” etc.

*Hiking, canoeing and other traditional non-motorized travel means are critically important to the use and enjoyment of the Refuge and support many other uses, including fish and wildlife-oriented recreation. Many non-motorized uses are also recognized under ANILCA and are specifically protected, subject to reasonable regulation.*

The only thing that precludes snowmachines from fitting this exact description is the motor.

Second, we request that the entire discussion about what constitutes a traditional activity be removed from this document. To surmise a definition of traditional activities is not relevant to making this required compatibility determination. The refuge always has the option to develop and formally propose a refuge-specific definition of traditional activities under Sections 1110(a) of ANILCA; however, this is not the appropriate forum. Furthermore, the discussion can again be considered one-sided. For example, the CD correctly notes that, in the old (pre-ANILCA) park at Denali, recreational snowmachine use was not determined to be a “traditional activity.” The CD, however, does not specify the unique circumstances which contributed to this definition – the fact that, prior to passage of ANILCA, this area was closed to snowmachine use. In contrast to the Denali example, The U.S. Forest Service has determined that snowmachine use for “traditional activities include, but are not limited to, recreation activities such as fishing, hunting, boating, sightseeing, and hiking” on all conservation system units, including designated wilderness. (USFS Region 10 Supplement No. R-10 2300-2003-2, specifically 2326.1 - Conditions Under Which Use May Be Approved). [Emphasis added] No other Section 1110(a) definitions of traditional activities on conservation system units in Alaska exist at this time. Notably, the Refuge Administration Act of 1966 included “public recreation” as a permissible use on a refuge, and compatibility of snowmachine use was established that same year.

Even though we do not think a discussion of the definition of traditional activities is appropriate in this CD, we do appreciate recognition that ANILCA closure procedures, including regulations, are necessary to restrict snowmachine use on the Refuge. We recommend adding a specific reference to the 43 CFR Part 36 regulations since the applicable closure procedures are not within the Service’s own regulations at 50 CFR Part 36.

The next paragraph about “*antidotal*” (sic) reports of increasing snowmachine use contains a very misleading statement that “*Conservatively, 10,000 to 15,000 miles of snowmobile tracks*



*may be laid on a single winter day.*” This statement was not well substantiated in the 1994 snowmachine CD and does not merit carrying forward in the revised CD. First, the miles of track a snowmachine could lay in a day is not necessarily relevant as stand alone information. Second, there will certainly be a few days (for example a sunny Saturday in February following a recent snowfall) when many miles of new trail will be created (much of it over old trail); but this number appears exaggerated to imply a much higher level of cumulative use than actually occurs on a sustained daily basis. Third, the numbers provided in this paragraph imply that most miles of snowmachine travel are over untracked snow – which is not necessarily accurate. Some users, especially families with small children, hunters and trappers tend to stick to common trails. Families may be limited by factors including riding ability, machine limitations (i.e. short track) or ability to maneuver with multiple persons on one machine. Hunters and trappers may be interested in facilitated access for a specific purpose (i.e. checking traps or access to known hunting areas). Many set a track early on and continue to use the same trail throughout the season. Others travel off-trail in pursuit of game (ptarmigan).

The description of the early 2005 pilot study to measure snowmachine access along popular backcountry entry points to the Caribou Hills looks interesting; however, not enough information is presented to corroborate the conclusions. For example, it is hard to tell if number of passes represents a daily maximum or a study period total, or if round trips are counted as two passes. The “*mean*” gap between passes is also hard to interpret without some background information about the duration of measurements. These questions do not necessarily need to be answered in the CD itself; rather these examples illustrate how the data could be better presented.

We also question the location and specific routes of the trails leading into the Caribou Hills measured by the TrafX off-road vehicle sensors. We reviewed a map (Alaska’s Caribou Hills Snowmobile Trail Map, The Seismic Source, 1995) that may not be the most up-to-date or reliable, but it appears that some of the listed trails may lead into each other and not directly into the Caribou Hills. For instance, the Centennial Trail does not enter the Caribou Hills, but joins the Clam Gulch Trail west of the Refuge boundary. It also appears that the sensors used in this study may have been located on adjacent state land on trails that are groomed by the local snowmachine club. We are concerned that the extrapolation of the data may be speculative, but have no way of knowing without more information. We therefore request a map showing the name and location of each trail discussed the location of all TrafX sensors, as well as the collected snowmachine use data.

#### **Availability of Resources**

We appreciate that the Refuge recognizes ANILCA “*changes the burden of proof on restricting a public use for compatibility reasons based solely on the availability of resources necessary to properly manage the activity.*” We encourage the Refuge and the Regional Office to ensure that appropriate resources are devoted to carefully designed studies of snowmachine. We also specifically request consultation opportunities on study scope and methodology. The State of Alaska has a keen interest in insuring that data regarding ANILCA-protected uses is defensible.

As with all the CDs, the last portion of this paragraph should be revised to reflect that this CD is a stand alone document, prepared separately from the upcoming revision of the 1985 comprehensive conservation plan.

### **Anticipated Impacts of Use**

This discussion has some useful components, but also contains premature value judgments, potentially irrelevant and out-of-date study references, and more anti-snowmachine bias. We request this section be revised to focus more specifically on the potential impact topics of greatest interest to the Refuge, and hone in on the most current and relevant data available. We also urge prioritizing the general lines of inquiry of the desired research. The current shotgun approach to impacts in this section implies many potential threats from many sources – too many to possibly study.

An example of anti-snowmachine bias in this section: *“Human safety and interference with non-motorized Refuge visitor experiences and values are also important issues as are potential conflict with Wilderness values, including impacts to solitude and remote area experiences.”* This statement, and particularly use of the word *“interference,”* inappropriate implication that all of the impacts are on the non-motorized users and that remedial actions would all be at the expense of snowmachine users. In our internal review, we suggested more neutral language such as *“Conflicts with non-motorized Refuge visitors and impacts on wilderness values are also issues.”* We again encourage a more balanced discussion.

We also request the Refuge update the impact topics and study references in light of newer snowmachine technologies and more recent studies. For example, the Yellowstone emissions data for the “1990s” is out of date in light of current EPA regulations that require snowmobile manufacturers to install engines with reduced emissions and greater noise reduction standards. Over time, use of older snowmachines will diminish as more people (especially frequent users) upgrade to newer machines. In addition, we question the relevance of some of the studies. For example, the impacts of 2,000 snowmobiles a day in Yellowstone is hardly comparable with any of the much more conservative use levels measured or estimated for the Kenai Refuge. Newer snowmachines are also quieter and have better floatation, thus causing less snow compaction than the older machines cited in earlier studies.

To assist you in updating this section, we suggest checking out the following reports from the American Council of Snowmobile Associations:

[http://www.snowmobilers.org/facts\\_sound.html](http://www.snowmobilers.org/facts_sound.html)

[http://www.snowmobilers.org/facts\\_soundmanagement.html](http://www.snowmobilers.org/facts_soundmanagement.html)

We also question the significance of human safety as an issue on the Kenai Refuge. No discussion is provided about the nature and extent of the perceived safety problem with snowmachines, nor is there comparable search and rescue data regarding either snowmachines or non-motorized users.

Implicating snowmachines as a possible reason why reintroduced caribou are absent from the Caribou Hills is inappropriate given the absence of supporting data. The last attempt at reintroducing caribou to the Caribou Hills in April 1986 consisted of a nominal number (16) of caribou originally from the Nelchina Herd. It has been shown that some of these caribou

dispersed from the Caribou Hills some 20 miles to the north of the Fox River area soon after their reintroduction for unknown reasons. That winter (1985/86) the Refuge was not open to snowmachine use at all due to inadequate snow cover and was not open until January 1987 the following year, presumably after the small number of animals had long since dispersed. Caribou from the release dispersed widely, with reports of individuals moving closer to human-settled areas of Homer and Ninilchik, and one case of a dispersal to Wolf Creek south of Hope. No attempts were made at the time by either ADF&G or the Service to determine why the caribou moved. Snowmachine influences as a cause for dispersal are equally as likely as habitat, the lack of predictability associated with the small number of caribou released, or predators. We note additionally that the Kenai Lowlands Caribou Herd currently exist within a densely human populated area in the Kenai–Soldotna city limits, in the presence of intensive snowmachine use, roads and automobiles. Without a rigorous and objective review of the facts, implications about why caribou are presently absent from the Caribou Hills is overly speculative, and therefore inappropriate in a compatibility determination.

Regarding conflicts with wilderness values, we appreciate the Refuge recognizes that “*some levels of impacts may be tolerated to reach this balance*” between protecting wilderness values and ANILCA mandates. We encourage a judicious, quantitative methodology similar to the approach used in National Park Service Denali Backcountry Management Plan. Such issues are matters relating to “reasonable regulation” under Section 1110(a) rather than compatibility.

#### **Stipulations Necessary to Ensure Compatibility**

As discussed in our general comments, we do not support making the Caribou Hills study a stipulation necessary to ensure compatibility.

#### **Justification**

Again, we support the conduct of carefully designed studies to examine snowmachine use in the Caribou Hills, even though we do not believe it is necessary to require it to ensure compatibility.

#### **Subsistence**

##### **Description of Use**

Regarding the fourth paragraph under sub-heading “*Subsistence Use and Compatibility*,” – detailed discussion of the legal “*gray areas*” and the associated “*challenges*” seems to be unnecessary. We suggest deleting this discussion or explaining more directly how the refuge plans to address compatibility in light of the protected status of subsistence. Also, note that even though subsistence is not a listed purpose of the Kenai Refuge, it is a general purpose of all federal public lands under ANILCA. Refuge purposes are not limited to the specific listed refuge purposes, but include other applicable statewide purposes in conjunction with ANILCA’s reestablishment of the Refuge. Also, we are not aware of efforts by federal staff to consider compatibility in the evaluation of federal subsistence proposals during the review process.

##### **Anticipated Impacts of the Use**

This discussion needs to be updated in light of implementation of federal subsistence regulations authorizing moose hunting in Units 15B and 15C from Oct 20 to Nov 10.

## **Trapping**

### **General Comments**

We have a long-standing procedural concern about the Refuge taking the lead on devising and requiring stipulations on Refuge trapping permits to accomplish internal management objectives without advance consultation with ADF&G or efforts to work through the Board of Game. This issue again came to the forefront after release of these draft CDs. Based on discussions last fall regarding the Master Memorandum of Understanding (MMOU) between the Service and ADF&G, the Service renewed its commitment to use the State Board of Game process to the maximum extent possible. We were therefore surprised to see the latest proposed trapping stipulations in the public review draft without a stated commitment to work with ADF&G or the Board of Game. We pointed out this problem in a letter to you on March 5, and we appreciated your prompt reply on March 8 with the following:

*Specifically, if after considering comments on the draft compatibility determinations the Refuge still considers that changes concerning the take of wildlife are necessary, we will first coordinate with ADF&G to cooperatively address the issues and bring any appropriate proposals to the Board of Game if necessary.*

In the course of discussing this issue with you on the phone, we also agreed to improve mutual understandings of the mechanics and timing of appropriate coordination and consultation with the State, and particularly ADF&G. One of our goals is to avoid having to address wildlife management issues at the last minute so that the Board of Game can evaluate Refuge proposals in their normal Board cycle. Clarifying and adhering to mutual expectations about such interagency coordination will go a long way toward resolving many of our concerns.

### **Availability of Resources**

We agree with the Service that trapping is compatible with refuge purposes. Over the years, however, a number of inconsistencies have developed between state trapping regulations and the special conditions in the required Refuge trapping permit. We are interested in rectifying these inconsistencies, where applicable, and request that state and refuge trapping rules be cooperatively reviewed and analyzed at the earliest opportunity, either through this CD revision process or in a revision of the Refuge's Furbearer Management Plan. Consistent with the understandings above concerning cooperation, we request broadening the consultation with the State regarding marten, red fox and wolverine to include all inconsistencies between state and federal trapping rules. We may not be able to entirely eliminate these inconsistencies, but it would be beneficial to all managers and the public to review them with this goal in mind, and to insure that all rules are reasonable and adequately address legitimate wildlife management, public safety or other concerns through an open, public process. If lack of staff time is an issue, we support working first on the new proposals relative to marten, red fox and wolverine.

### **Anticipated Impacts of Use**

The last three sentences in the second paragraph concerning closures to allow for "recovery" are not entirely accurate. Furbearer populations are not directly assessed for specific numbers of

animals but for trends. Unless a specific necessity is shown due to a long term decrease in a population, furbearer trapping seasons are designed to allow for a harvest without reducing the population from its normal fluctuations. Lynx are somewhat different in that trapping is closed during periods of natural declines in hare populations when lynx populations are also low.

The last table about management status shows red fox as extremely rare and attributes the decline to a history of trapping. Consistent with the rationale #3 on the previous page, we request the “*History*” annotation say that red fox numbers are currently limited, that their historic population levels are unknown and the cause of their current low levels is uncertain. While a number of causes may have influenced their population over time (including possible historic artificial increases or decreases caused by the now defunct fox farming industry), trapping is not suspected to be responsible for their current population level. A primary cause of their current limited numbers is believed to be competition and predation from coyotes and wolves.

In addition, we request that the table use the phrase “*uncommon*” instead of “*rare*” for both red fox and marten. Rare gives the impression that these species are rare in general and in need of urgent management action to preserve their existence. We also request expansion of the History column for marten to indicate they are limited on the Kenai Refuge portion of the Kenai Peninsula by lack of suitable habitat. (See next comment below).

#### **Stipulations**

See general comments above under **Availability of Resources**. The following commonly-accepted understandings are reported by ADF&G wildlife staff.

Marten: Marten are most likely limited on the refuge due to a lack of suitable habitat and are plentiful elsewhere on the Kenai Peninsula (GMU 7) where more available habitat exists.

Red fox: Red fox are likely limited due to competition with and/or predation by coyotes and wolves.

Wolverine: There are no data to show that wolverine populations are any higher or lower on the Kenai Peninsula than they have ever been, although research on wolverine populations on the Kenai Peninsula is currently underway by ADF&G, which may shed more light on the topic.

Consistent with the MMOU, ADF&G welcomes early and thorough coordination of concerns and proposals for objective, cooperative research on all species of wildlife on the Kenai Peninsula. Additionally, we encourage the Service to utilize the State’s regulatory processes to address wildlife population concerns to the maximum extent allowed by Federal law, as provided by the MMOU, prior to implementing direct Refuge management actions such as additional permit stipulations.

Thank you for the opportunity to submit these comments. If you have any questions, please let me know.

Sincerely,



Sally Gibert  
ANILCA Program Coordinator

## Attachment

### State of Alaska Comments on Kenai Refuge Draft Compatibility Determinations

Supplemental comments on Regional Refuge Stipulations that apply to all refuges in Alaska.

The examples of stipulations below come from the “*Stipulations Necessary to Ensure Compatibility*” as used in the Compatibility Determination for **Research and Scientific Studies and Surveys**. Several of these stipulations contain wording that would benefit by clarification or adjustment to provide improved direction for managers, other agency administrators and the public. We request the opportunity to work with the Service to identify and address these relatively minor concerns in an effort to provide what would likely be very useful direction for refuge managers. This effort is consistent with our longstanding hope for more regional consistency in compatibility determinations and associated stipulations for administrative and public uses, except where local conditions necessitate reasonable adjustments.

Stipulation #4: “*Serious problems with wildlife*” is a little ambiguous and would benefit from clarification.

Stipulations #11 and 26: These two stipulations appear to contain some duplication. Can they be combined?

Stipulation # 14: It is not clear if waste materials include solid human waste or just trash.

Stipulation #15: We suggest replacing “*field season*” with “*the authorized period of use*” to be consistent with the definition of “temporary” in the Management Guidelines Table.

Stipulation #19: As noted in our internal comments, we continue to request an informational copy of the referenced regional Service fuel storage policy.

Stipulation #23: To improve this stipulation’s enforceability and to relieve any ambiguity, we recommend adding “*intentionally*” to the following sentence as indicated:  
“*The permit holder will take no action that intentionally interferes with subsistence activities...*”

Stipulation #29: As written, this stipulation may prove unenforceable. It could be rewritten as advisory; however the 29 previous stipulations appear sufficient to protect wilderness values, where applicable.