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The Honorable Kenneth L. Salazar
Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Mr. Secretary,

I wish to bring to your attention a matter of great concern to the State of Alaska. We grow increasingly troubled by how certain agencies within the Department of the Interior are interpreting the Alaska National Interest Lands Conservation Act (ANILCA). Actions taken by these agencies could upset the delicate balance of interests achieved by ANILCA, detrimentally impacting many Alaskans and reopening bitter, decades-old debates regarding land management.

When President Carter signed ANILCA into law in 1980, it established more than 100 million acres of federal land in Alaska as new or expanded conservation system units (CSUs). In addition to setting aside this massive portion of Alaska's land to preserve the State's scenic and wildlife resources, ANILCA sought to protect Alaska's fledgling economy and infrastructure, and its distinctive rural way of life. Moreover, the legislation served the critical purpose of lending finality to the issue of the State's conservation designations.

As ANILCA was debated in Congress, the Alaska legislature adopted a resolution providing guidance to then Governor Hammond concerning the State's advocacy efforts in Congress with respect to the legislation. The resolution contained a series of so-called consensus points, which included direction to pursue a "no more clause," to avoid the imposition of a "permit lifestyle" on the citizens of Alaska, and to ensure reasonable public access across federal lands for fish and game management and to inholdings located on such lands. These concepts, which we strongly support, were partially incorporated into ANILCA and have since guided federal agency action. ANILCA mandates important differences from federal land management practices in other states.

Recent developments, however, suggest that agencies within the Department of the Interior may be departing from the consensus points embodied in ANILCA and from earlier patterns of implementation. Such an approach threatens to erode the foundation of ANILCA's compromises and negatively impact Alaska's economy and unique Alaskan way of life. The ensuing controversy could also undo longstanding efforts to forge continued cooperative relationships with the State and the public on all matters of land stewardship.

Many of the actions that cause us concern involve consideration of new wilderness areas on Alaska's public lands. These efforts violate the spirit of ANILCA's "no more" clauses. Section 101(d) of

ANILCA clearly states that, barring new legislation, ANILCA is meant to be the final word on conservation designations:

> *This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people....Congress believes that the need for future legislation designating new conservation system units...has been obviated thereby.*

ANILCA's drafters were so intent on precluding future conservation designations that they sought to limit new studies supporting such designations. Section 1326(b) explains:

> *No further studies of federal lands in the state of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area or for related or similar purposes shall be conducted unless authorized by this act or further act of Congress.*

Congress established barriers to the creation of additional conservation units, such as wilderness and wild and scenic river designations, for good reason. Formal wilderness designations under the Wilderness Act of 1964 are the most restrictive land classifications available. They tie the hands of both federal and State managers and hamper Alaskans' traditional access to lands and resources. In a state where 25 percent of all federal land is already designated as wilderness, the prospect of additional wilderness reviews constitutes yet another potential setback for responsible administration and management.

For nearly 30 years, the United States Fish and Wildlife Service (Service) held the position that the administrative wilderness review requirements of Section 1317 of ANILCA had been satisfied and no further wilderness reviews were required in Alaska. Earlier this year, however, the agency abruptly changed course and instructed that new wilderness reviews should be conducted as the agency updates the comprehensive conservation plans for wildlife refuges in Alaska. In fact, very recently, the Service embarked on wilderness reviews for all remaining undesignated areas within the Arctic National Wildlife Refuge (ANWR), including the coastal plain, for potential inclusion within the National Wilderness Preservation System. This action ignores that the agency already conducted the coastal plain wilderness review required by ANILCA and reported to Congress in 1987 that a wilderness designation was not appropriate and that the area should be opened to oil and gas exploration and development. New wilderness reviews also contradict the "no more" clauses and threaten to further encumber the potential for jobs and domestic energy from oil and gas development on ANWR's coastal plain. It is not yet clear if the Service will attempt to balance the review by considering the oil and gas potential of the coastal plain, as is required by Section 304 of ANILCA. In addition, the Service is evaluating all rivers within the Arctic Refuge for potential designation as wild and scenic rivers, including reconsideration of the Porcupine River, which was previously studied and determined non-suitable.

Similarly, the National Park Service conducted the wilderness review and analysis required by Section 1317 of ANILCA and, until recently, held the position that no further wilderness reviews were necessary in Alaska. The National Park Service recently reversed this long-standing position and began to incorporate wilderness reviews into their Backcountry Management Plans, starting with the Gates of the Arctic National Park. Repeating these reviews creates considerable unnecessary costs, controversy, and management conflicts.

In addition, the Bureau of Land Management appears to be weighing whether to add wilderness reviews to Resource Management Plans in Alaska. This is particularly problematic given that BLM lands serve a crucial multiple use function in the state. Since the passage of ANILCA, nearly all Secretaries of the Department of the Interior have not pursued the discretionary option in Section 1320 to conduct wilderness reviews on BLM lands in Alaska without Alaska's gubernatorial concurrence. The conservation of BLM lands and resources, including remote recreational opportunities, can be fully achieved with existing administrative tools.

Though BLM has not explicitly indicated such intent, we are also particularly concerned about possible wilderness and wild and scenic river recommendations in planning for the National Petroleum Reserve in Alaska (NPR-A). Not only would these recommendations be contrary to ANILCA, they would also conflict with the underlying purpose of NPR-A. In *U.S. v. Alaska*, the U.S. Supreme Court held that the purpose of the withdrawal that created NPR-A was "securing a supply of oil."[1] This purpose was sufficient to defeat Alaska's title to the submerged land in the reserve. Wilderness and wild and scenic river designations would significantly impede access and development in the area.

Agency actions appear to run afoul of other ANILCA provisions as well. The National Park Service (NPS) has extended application of national park rules beyond park lands and onto State-owned waterways, in violation of explicit ANILCA direction that such rules shall not apply to State or private lands. Section 103(c) of ANILCA reads: "No lands which . . . are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such [conservation system] units." NPS has issued warnings and commenced enforcement actions against individual Alaskans for alleged regulatory violations on State navigable waters. In addition to lacking authority over these areas, in several instances, the Park Service has overstepped its bounds with regard to enforcement.

On a related note, we have received complaints that uniformed and armed NPS employees have made door-to-door visits in at least one village to talk with residents about law enforcement matters. Even if these visits were warranted in the view of the Park Service, they appear to be examples of overreaction and abuse of authority.

Despite the clear ANILCA provision that limits the application of federal refuge rules to federal public lands, the U.S. Fish and Wildlife Service recently finalized a management plan for Togiak National Wildlife Refuge that sets in motion limits on public use of two State navigable waterways, the Kanektok and Goodnews Rivers, through the implementation of a federally administered permit system. The Service justified restrictions on these State navigable waters to provide a "wilderness angling experience," even though the use restrictions are not needed to address conservation or upland refuge resource issues.

Finally, we understand that federal land management agencies are imposing additional impediments to routine fish and wildlife management and research activities conducted by the Alaska Department of Fish and Game (ADF&G). These impediments include increasing permit and NEPA compliance requirements on refuge and park areas, and particularly impact department activities conducted within wilderness areas. Section 1314 of ANILCA states that, "[n]othing in this Act is intended to

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[1] *U.S. v. Alaska*, 521 U.S. 1, 40 (1997).

enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in title VIII [the subsistence title] of this Act, or to amend the Alaska constitution." Federal agencies now require permits or advance approvals before ADF&G conducts fish and wildlife management activities. These requirements significantly impede ADF&G's activities and intrude upon the State's sovereign authorities that were protected by Congress.

ANILCA represented an important compromise that has provided the framework for conservation and development efforts in Alaska. The examples discussed above illustrate a pattern of Interior Department agencies overlooking key principles of ANILCA. We encourage you to give these actions your close personal review.

Sincerely,

Sean Parnell
Governor

cc: The Honorable Lisa Murkowski, United States Senate
The Honorable Mark Begich, United States Senate
The Honorable Don Young, United States Congress
Tom Strickland, Assistant Secretary, Fish, Wildlife and Parks, United States Department of the Interior
Wilma Lewis, Assistant Secretary, Land and Minerals Management, United States Department of the Interior
Pat Pourchot, Special Assistant to the Secretary for Alaska Affairs, United States Department of the Interior
Kim Elton, Interior Director of Alaska Affairs, United States Department of the Interior
John Jarvis, National Director, National Park Service, United States Department of the Interior
Rowan Gould, National Director, United States Fish and Wildlife Service, United States Department of the Interior
Bob Abbey, National Director, Bureau of Land Management, United States Department of the Interior
Sue Masica, Alaska Regional Director, National Park Service, United States Department of the Interior
Geoffrey Hasket, Alaska Regional Director, U.S. Fish and Wildlife Service, United States Department of the Interior
Thomas Lonnie, Alaska State Director, Bureau of Land Management, United States Department of the Interior
John W. Katz, Director of State/Federal Relations and Special Counsel, Office of the Governor