



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of Law**

Office of the Attorney General  
1031 West 4th Avenue, Suite 200  
Anchorage, Alaska 99501-5903  
Main: 907-269-5100  
Fax: 907-269-5110

December 3, 2015

**BY EMAIL TO Dan\_Ashe@fws.gov & 1<sup>ST</sup> CLASS MAIL**

Daniel M. Ashe  
Director  
U.S. Fish & Wildlife Service  
1849 C Street NW, Room 3331  
Washington, D.C. 20240

Re: State of Alaska objection to federal refuge closure plan

Dear Mr. Ashe:

Please reconsider the decision to apply the Contingency Plan for Operations in the Event of a Lapse in Appropriations (Closure Plan) to national wildlife refuges in Alaska. While the benefits and legal necessity of closing refuges in Alaska remain largely unarticulated, any closure is certain to cause substantial harm. We would like to exercise the state's right to consultations under the Alaska National Interest Land and Conservation Act (ANILCA) and meet at the earliest opportunity to discuss the merits of applying the national rule in Alaska and potential alternative approaches.

The Closure Plan published by the Fish and Wildlife Service (FWS) in September would close refuge areas unless the agency determines that activities would not cause the agency to expend or obligate funds in violation of the Anti-Deficiency Act. With respect to national wildlife refuges, the plan allows Waterfowl Protection Areas to remain open and some Alaskan subsistence activities to continue during an appropriations shutdown. The regional solicitor's office confirmed that a closure notice in Alaska would be issued in conformance with this national plan. We believe the plan violates procedural and substantive requirements of ANILCA and its application will cause significant harm.

While we appreciate the allowance for federally qualified subsistence activities, it is still unreasonable to prohibit priority public uses and FWS has not offered an adequate justification for placing this burden on Alaskans. The closure would clearly harm resident subsistence hunters, non-subsistence hunters, and other users. Beyond the impact on

individual users, prohibiting access to wildlife refuges effectively shuts down the entire commercial guiding industry. Everyone connected with this industry – guides, transporters, air taxi operators, and those they employ, including local residents who often work for guides in a wide variety of capacities – will experience significant economic harm. The closure will also impact local residents who depend on meat donated by hunters. And, a closure would also prevent management and research activities conducted by the state that require access to refuge lands. We know from the shutdown in October 2013 that guides, hunters, local communities, the state, and many others will suffer very real losses.

FWS adopted the plan without consultation with the state and failed to follow the rulemaking procedures required for closures or restrictions under ANILCA. No emergency justified the truncated process. Adopted in September, the first potential application of the plan appears to be in mid-December. It appears that FWS also intends to follow the plan in future years. We believe there is adequate time for consultation with the state and a public process. Given the flawed adoption process, the Closure Plan cannot have the force of law.

The Closure Plan also violates ANILCA's substantive requirements for management decisions. Section 802 requires management based on scientific principles. Sections 804, 815, and 816 provide that non-subsistence uses may be restricted only when necessary to ensure the continued viability of a species or population, for public safety, or for purposes of administration. Given that FWS does not anticipate a reduction in public safety or enforcement personnel, there is no public safety or administrative basis for the proposed restrictions. Nor is there any scientific basis, shortage of resources, or concern for wildlife that justifies application of the plan in Alaska. This plan would improperly close refuge lands to allowed uses without any scientific basis and without cause.

We respectfully request a meeting to discuss these concerns and to try to reach agreement on a less punitive plan. Thank you for your attention to this matter, we look forward to discussing the issue further.

Sincerely,



Craig W. Richards  
Attorney General



Sam Cotten  
Commissioner  
Department of Fish & Game

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cc: (By Email & 1<sup>st</sup> Class Mail)

The Honorable Sally Jewell, U. S. Secretary of the Interior

The Honorable Lisa Murkowski, U. S. Senate

The Honorable Dan Sullivan, U.S. Senate

The Honorable Don Young, U. S. House of Representatives

Geoff Haskett, Alaska Regional Director, U.S. Fish & Wildlife Service