

# STATE OF ALASKA

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Elizabeth Souheaver  
Chief, Branch of Resources  
National Wildlife Refuge System  
4401 North Fairfax Drive, Room 670  
Arlington, Virginia 22203

email: [ecointegrity\\_policy\\_comments@fws.gov](mailto:ecointegrity_policy_comments@fws.gov)

Dear Ms. Souheaver:

The State of Alaska has reviewed the Draft Policy on Maintaining the Ecological Integrity of the National Wildlife Refuge System published in the Federal Register on October 17, 2000. This policy attempts to develop the statutory objectives of "*biological integrity, diversity, and environmental health*" from the Refuge Improvement Act of 1997 into the concept of "*ecological integrity*," and in turn establishes a baseline frame of reference for targeted "*natural conditions*" at 800 AD to 1800 A.D. This letter represents the consolidated comments of the State of Alaska's resource agencies. We appreciate the extended opportunity to review this draft policy.

The State of Alaska views this policy to be largely unachievable and highly problematic, and we request that it be withdrawn. The State of Wyoming has developed extensive comments which delve into the substantive difficulties in greater detail. There is no need to repeat them here (although they are attached for the record). This letter highlights the key concerns of national significance and adds a few comments specific to Alaska.

#### National Significance

The term "*ecological integrity*" does not appear in the Refuge Improvement Act. It appears to be a creative invention based on interpretation of several related provisions that force a management philosophy absent in the Act itself.

For many (probably most) refuges in the United States, identifying "*natural conditions*" that were present 200 or more years ago will be virtually impossible, and at best subjective. Basing future science-based management decisions on a speculative guesstimate of historic conditions

opens the door to considerable confusion. Furthermore, the important regional context of the original natural condition has likely been altered, thus raising questions about the role of a modern refuge were it in fact returned to its "*natural condition*."

Even where such a "*natural condition*" habitat standard can be identified, there is a problem with presuming that such a standard is preferable to current conditions. A great many refuges are small vestiges of much larger fish and wildlife habitats. These "refuges," in every sense of the word, are intensively managed with major habitat manipulation and enhancements to concentrate and support remnant populations at "unnaturally" higher densities. This widespread, traditional, and successful management regime is inherently inconsistent with the proposed policy direction.

Each existing refuge has been established at the **national** level in the context of **local and regional** needs. The enabling legislation for each refuge sets out its unique purposes. Attempting to overlay a largely artificial top-down purpose on a system that was built from the bottom-up will create unnecessary tension between the new administrative policy and existing legislative mandates. Granted, the proposed policy makes allowances for refuge-specific purposes, but the process of weighing these competing priorities will be highly burdensome to refuge managers.

An important premise of the nation's refuge system is facilitation of wildlife-dependent public uses managed consistent with the purposes of the individual refuge and sound principles of fish and wildlife conservation. Again, habitat enhancements are regularly employed to increase biological integrity, productivity and the capacity of the public to enjoy a variety of wildlife-dependent activities, both consumptive and non-consumptive. This important system-wide refuge purpose also competes with the approach advocated in the ecological integrity policy.

### The Role of the States

The only reference in the policy to the role of the states in the management of fish and wildlife occurs on Federal Register page 61361 under 3.15:

"We encourage cooperation and coordination with State fish and wildlife management agencies in setting refuge population management goals and objectives. Regulations permitting hunting and fishing within the System will be, to the extent consistent with this policy, in keeping with State fish and wildlife laws, regulations and management plans."

Management of fish and wildlife is a traditional state responsibility unless specifically modified by an Act of Congress. It involves more than just regulating harvest. The states should also be involved in design and implementation of studies and evaluations of fish, wildlife, and related population data leading up to the mutual development of population goals.

The Refuge Improvement Act Section 8(m) specifically states:

"Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident

wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, and management plans."

In Alaska, the Alaska National Interest Lands Conservation Act (ANILCA) Section 1314(a) also states: "Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands . . . "

Explicit recognition of state authorities should be introduced up front and referenced whenever refuge managers are provided direction regarding rendering determinations involving the state's responsibilities for fish and wildlife, such as defining "*natural conditions*" and historical populations levels. Appropriate deference should also be given the states in assessing the health, welfare and status of the resident fish and wildlife populations.

### Alaska-specific Considerations

On its face, application of the ecological integrity policy would appear to be least problematic for Alaska. Alaska's refuges are indeed vast, and with some notable exceptions, modern natural conditions are probably largely similar to conditions 200 or more years ago. Large chunks of intact ecosystems have indeed been reserved. Yet the Service should not assume that implementation of this policy in Alaska would be straightforward.

First, the Refuge Improvement Act (PL 105-57, Oct 9, 1997) specifically notes that in case of conflict, ANILCA prevails:

#### Sec. 9. STATUTORY CONSTRUCTION WITH RESPECT TO ALASKA

(b) CONFLICTS OF LAWS.-If any conflict arises between any provision of this Act and any provision of the Alaska National Interest Lands Conservation Act, then the provision in the Alaska National Interest Lands Conservation Act shall prevail.

Secondly, the underlying purposes of the Refuge Improvement Act are already amply served by the specific refuge purposes in ANILCA. The Refuge Improvement Act calls for "*biological integrity, diversity and environmental health*" in a system that "*conserves fish, wildlife, and plants in their habitats.*" ANILCA provides very similar refuge purposes for all Alaska refuges, for example: "*to conserve fish and wildlife populations and habitats in their natural diversity.*" Hence, unlike most of the refuges in the lower 48 states, Alaska's refuge system is already based on recognition of larger ecosystems.

Therefore, extending this policy to Alaska is both inappropriate and unnecessary.

Section 3.16, paragraph 5, says that regulations permitting hunting and fishing in refuges will be in keeping with state fish and wildlife laws, regulations, and management plans, as long as they are consistent with this policy. In Alaska, federal subsistence management regulations can be more restrictive than corresponding state regulations on refuge lands. Consequently, this

statement isn't entirely accurate for Alaska. Clarification as to how ANILCA affects this policy would be helpful.

Recommendation: Use Comprehensive Conservation Plans

If the Service continues to pursue some sort of time-based frame of reference for identifying natural conditions, at a minimum the time period should have some refuge-specific flexibility. The following excerpt from Federal Register page 61360 leaves the door open for this approach:

"In the United States, European settlement and the industrial era began approximately 1600 AD and 1800 AD, respectively. In some areas the land use changes that degrade or destroy wildlife habitat did not begin until much later than 1800, particularly in Alaska. In these areas, we may extend the frame of reference for natural conditions beyond 1800."

We strongly encourage this line of thinking for Alaska, along with recognition that for thousands of years the human element has been and continues to be an integral part of the ecology in Alaska. All refuges in Alaska are embarking on comprehensive conservation plan (CCP) revisions. We suggest that details of the intent of this policy, including a baseline frame of reference, be addressed at the refuge-specific level in the CCPs. In fact, we suggest that CCPs may be the appropriate vehicle to flesh out the underlying intent of this policy for all refuges nationwide.

In conclusion, we believe we have presented ample reason why implementation of the draft ecological integrity policy is problematic and actually counter-productive to many of the underlying purposes of the national wildlife refuge system. We again urge that this policy be withdrawn, or at a minimum substantially modified. If you have any questions, please feel free to contact this office at 907-269-7477.

Sincerely,

/ss/

Sally Gibert  
State CSU Coordinator

Attachment: Wyoming comments

cc: John Katz, Governor's Office, Washington, D.C.  
John Sisk, Governor's Office, Juneau  
Pat Galvin, Director, Division of Governmental Coordination  
Pat Pourchot, Commissioner, Department of Natural Resources  
Frank Rue, Commissioner, Department of Fish and Game