

STATE OF ALASKA

ANILCA IMPLEMENTATION PROGRAM

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April 17, 2006

Cyndie Wolfe
Project Coordinator
U.S. Fish and Wildlife Service
1011 East Tudor Road
MS-231
Anchorage, AK 99503

Dear Ms. Wolfe:

The State of Alaska reviewed the February 2006 Yukon Flats National Wildlife Refuge Proposed Land Exchange, Environmental Impact Statement Newsletter, and the February 2005 Evaluation and Review of a Proposed Land Exchange and Acquisition of Native Lands within the Yukon Flats National Wildlife Refuge. The following represents the consolidated views of State resource agencies.

The State reiterates conceptual support of a land exchange between the U.S. Fish and Wildlife Service (Service) and Doyon, Ltd. (Doyon) to facilitate an opportunity for responsible oil and gas development. We look forward to a mutually beneficial agreement that provides significant economic opportunity to the local communities and the State, while enhancing long-term protection of quality fish and wildlife habitat within the Yukon Flats National Wildlife Refuge (Refuge). We also understand the basis for the Service's decision to further evaluate the proposed land exchange through an Environmental Impact Statement (EIS) and will provide assistance and coordinated comments to the Service as necessary during its development. We request the EIS give consideration to the following issues and concerns:

Subsistence Access Easement

The State has concerns about the provision in the proposed exchange agreement that provides a subsistence access easement for Doyon shareholders on lands that would be transferred to the federal government and managed by the Service as part of the refuge:

“Doyon will retain an access easement for subsistence purposes on all lands transferred to the U.S. in Phases I and II....This easement will ensure that local rural residents will always have access to these lands for lawful subsistence

purposes." (page 47, Evaluation and Review, Yukon Flats National Wildlife Refuge, U.S. Fish and Wildlife Service, February 2005).

It appears that the proposed subsistence easement is intended to ensure that Doyon shareholders retain special access rights for subsistence purposes on refuge lands acquired through the exchange (former Doyon lands). Existing Federal subsistence regulations provide a priority for subsistence use of fish and wildlife on refuge lands by local rural residents who have customary and traditional use of specific resources. Section 811 of the Alaska National Interest Lands Conservation Act (ANILCA) ensures that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands. We question whether the Service can legally establish and enforce a federal subsistence priority access right on federal land on the basis of shareholder status in a private corporation. We therefore recommend the Service remove the provision for a subsistence easement retained by Doyon from the proposed agreement.

State Ownership of Submerged Lands

Under the Equal Footing Doctrine, the Submerged Lands Acts of 1953 and 1988 and the Alaska Statehood Act, ownership of submerged lands underlying navigable waters currently within the boundaries of the Refuge passed to the State at the time of statehood in 1959. We request the EIS include assurances that state-owned navigable waters will be meandered out of the acreage included in the exchange. All subsequent proposals and supporting documents should also include recognition of state-owned shorelands within the boundaries of the exchange area, especially in light of the State's subsurface interests in areas anticipated for exploration and development.

Public Access

We appreciate the preliminary information concerning proposals for public access in the exchange, such as the 1-mile wide public use easement along Beaver Creek. We request the EIS also include detailed information associated with the provision and preservation of additional easements, wherever necessary, for access to public lands and waters, including those newly acquired per the agreement, and/or to sustain those reservations in existence at the time of exchange. This will help both the involved parties and the public understand that no interruption or loss of access to public lands and waters will transpire in the course of the exchange process.

ANILCA Title XI Access

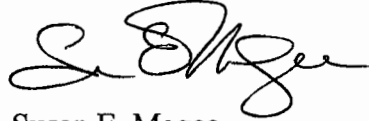
It is our understanding that, regardless of the success of a land trade, Doyon intends to conduct exploratory work for oil and gas on lands to which they currently hold subsurface rights within the Refuge. Should those efforts identify marketable quantities of oil or gas, Doyon is likely to apply for a transportation and utility right-of-way under regulations at 43 CFR 36, which implement Title XI of the ANILCA. We suggest the potential location(s) of such a corridor be considered in the configuration of the land exchange. The State has available information about fish and wildlife populations and

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uses, and public access that may assist both Doyon and the Service with the application process.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Susan E. Magee', written in a cursive style.

Susan E. Magee
ANILCA Project Coordinator

cc: Sally Gibert
ANILCA Program Coordinator