

STATE OF ALASKA

ANILCA IMPLEMENTATION PROGRAM Office of Project Management and Permitting

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Lee Anne Ayres, Refuge Manager
160 2nd Avenue
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Kotzebue, AK 99752

Dear Ms. Ayres:

The State of Alaska reviewed the Draft Revised Comprehensive Conservation Plan (Plan) and Environmental Assessment (EA) for the Selawik National Wildlife Refuge. The following comments represent the consolidated views of the State's resource agencies.

We appreciate the considerable efforts of both refuge and regional staff in developing a clear planning document that addresses a variety of management issues identified through the planning process. With limited exception, the State supports the implementation of this draft Plan. Specifically, we support the following actions:

- marking winter trails
- creating partnerships to address maintenance and repairing shelter cabins and the Singauruk Bridge
- addressing existing issues surrounding the hot springs
- retain local knowledge by capturing traditional place names and documenting elder's knowledge of pre-ANILCA activities and modes of access
- continue locally important competitive events and consider new competitive events on a case-by-case basis

However, we have concerns regarding the proposed closure of refuge lands to commercial guides and transporters.

The State is keenly aware that fall hunting in Game Management 23 (GMU 23) has been the subject of user conflicts since the early 1980s, primarily between local residents and non-local hunters (both Alaska residents and non-residents) transported by commercial operators. The State of Alaska has invested considerable time and effort attempting to resolve this issue, including allocating over \$80,000 to planning processes such as the GMU 23 User Conflict Working Group, which is dedicated to working toward solutions to these issues. The Alaska Department of Fish and Game (ADF&G) has submitted or supported multiple proposals to the Alaska Board of Game (state Board) and participated in education and communication programs, which have shown progress in combating wanton waste and educating non-local residents of local concerns. We strongly support resolution of this conflict.

While we recognize both the State and the Service are under considerable pressure to act, we all must work within our existing regulatory frameworks to address the specific issues raised by the public. The state Boards allocate fish and wildlife across the state for a variety of uses, including subsistence, and can address both direct and indirect effects on fish and wildlife. For example, controlled use areas can restrict means of access or methods of take to achieve a certain outcome, usually associated with a conservation issue. ADF&G manages fish and wildlife across Alaska and, if necessary, utilizes emergency orders to assure the sustainability of all fish and wildlife.

The Service manages refuges for multiple purposes under a variety of statutes, regulations, and policies. Chief among those statutes in Alaska is the Alaska National Interest Lands Conservation Act (ANILCA), which established the refuge. Amendments to the Refuge Administration Act also identify a number of principles that guide refuge management. These include conserving populations of fish and wildlife; monitoring the status and trends of fish and wildlife; maintaining opportunities for compatible forms of hunting, fishing, and trapping; and coordinating, interacting, and cooperating with adjacent landowners and state fish and wildlife agencies. We encourage the Service to continue to work closely with state agencies, including the Departments of Fish and Game and Natural Resources, and other partners to develop cooperative management responses to the issues within the Selawik Refuge and adjoining area.

The Service also regulates commercial services on the refuge and ANILCA Section 1110(a) contributes applicable guidance by allowing certain motorized access, including airplanes, for traditional activities, subject to reasonable regulation. By any reasonable standard, hunting by local and non-local hunters is clearly a traditional activity. We realize that regulation of transporters, as a commercial activity, is somewhat different from regulating public access; however, ANILCA Section 1110(a) protects the use of specific modes of transportation – it is not specific as to the *user*. Consequently, even though the managed use is commercial, any restrictions on transporters should be based on documented impacts to resources values, consistent with the criteria in the implementing regulations at 43 CFR Part 36. Since wildlife populations remain stable, conservation concerns currently do not exist, and subsistence needs are currently being met, restrictions that meet the Section 1110(a) criteria will be difficult to justify.

In addition, we question the actual on-the-ground benefit of the proposed closure. As stated on page 1-25 of the EA, “*the conflict tends to be less intense on Selawik refuge lands than in other more heavily hunted parts of the region.*” Very few commercial transporters drop clients in this area due to lack of suitable landing areas and no permitted guides have ever included the areas proposed for closure in their operating plans. We therefore question the need for a formal closure when its only effect would be to essentially institutionalize the existing on-the-ground situation – especially considering commercial services would still be allowed for other activities, including small game hunting and wildlife viewing, as well as private plane use for big game hunting and other activities.

Moreover, within the existing framework of available tools, we expect non-closure related stipulations in the draft compatibility determination to address the majority of potential on-the-ground impacts. For example, stipulations already state “*the operation of aircraft at altitudes and in flight paths resulting in the herding, harassment, hazing, or driving of wildlife is prohibited. It is recommended that all aircraft, except for takeoff and landing, maintain a minimum altitude of 2,000 feet above ground level*” and “*any action by a permittee or the permittee’s employees which unduly interferes with or harasses other refuge visitors or impedes access to any site is strictly prohibited.*” In addition, the established hunter

education program as well as recent actions by the state Board to require mandatory pilot education for all hunters flying into GMU 23 should also help prevent future conflicts. We understand these actions do not provide a tangible limit to commercial use as desired by local residents; however, we expect they will reduce the vast majority of negative interactions contributing to user conflicts.

We appreciate that Alternative C differs fundamentally from Alternative B in that it does not proceed directly to a closure; rather it develops a process for considering whether there is a need to regulate these commercial services. We also appreciate the Plan's stated intent to "*develop decision criteria to allow commercial operations*" in "*close cooperation with the State of Alaska and other partners*" while utilizing a public process to do so. We request incorporating established timeframes, periodic reevaluation periods, limits to the length of time a regulation could be in effect, and criteria for reopening an area within Alternative C. Additionally, for reasons previously discussed, restrictions curtailing airplane use should meet the threshold criteria of Section 1110(a) of ANILCA. We reiterate that since wildlife populations remain stable, conservation concerns currently do not exist, and subsistence needs are currently being met, restrictions will be difficult to justify, regardless of the process used. Lastly, should Alternative C be selected, we request an opportunity to meet with refuge staff to review the five zones identified in the Plan.

Compatibility Determinations (CD)

D-30, Commercial Transporter Services, Description of Uses: The Commercial Transporter Services CD recognizes the important role that Commercial Transporters play in providing access to the refuge.

"Commercial transporter services contribute to the fulfillment of refuge purposes and the National Wildlife Refuge System mission by providing access to visitors otherwise unable to reach refuge lands. These services facilitate priority public uses such as recreational hunting, fishing, wildlife observation, and other compatible uses and activities."

The Togiak Refuge Commercial Transporter Services CD additionally recognizes that commercial transporting is "*a traditional activity that Congress intended to preserve when it established the Refuge with the enactment of ANILCA.*" We request this important recognition be added to the Selawik CD.

D-31, Commercial Transporter Services, Anticipated Impacts of Uses: The following sentences need to be moved into a separate paragraph. "*Commercial transporter services could concentrate public use in the most accessible portions of the refuge. This could lead to loss of opportunities for visitors seeking solitude and wilderness experiences on the refuge.*" In addition, the terms "solitude" and "wilderness experience" implies the discussion is about designated wilderness. We recommend this be clarified in the final CD, using different terminology if the concern applies to non-designated wilderness.

Page-Specific Comments

Page 2-4, Goal 1, Objective 6: Wildlife populations are monitored across GMU 23 in a cooperative effort. By pooling limited personnel, resources, and funds, the State, US Fish and Wildlife Service, National Park Service, and Bureau of Land Management are able to better monitor wildlife populations region-wide, with a general priority to areas mutually identified as areas of greatest concern. This

objective unnecessarily establishes a short survey interval of 1-3 years, as opposed to the standard 3-5 year interval utilized in the GMU 23, to the detriment of other areas across the region.

We are not aware of any conservation concerns associated with moose on the Selawik Refuge at this time. Moose harvests are closely monitored, and there is no biological reason to survey moose at such a frequency. A survey area may be advanced on the rotation if a biological concern develops, such as a severe winter die-off, dramatic increase in harvest, or significant increased predation.

We request the Service modify this objective and offer the following revision for your consideration.

At intervals of ~~1-3~~ 3-5 years – or more frequently based on mutually identifiable conservation issues – obtain a moose population estimate for the refuge, including age and sex ratios, by conducting aerial surveys in cooperation with neighboring State and Federal Land managers.

Page 2-10, Objective 7: We support the Refuge’s intent to conduct a “traditional access” study as part of its near-term priorities. We especially appreciate the intent to begin interviewing elders and other long-term residents that can share first-hand knowledge. We encourage the Refuge to embark on these elder interviews as soon as practicable, even if the rest of the study does not get underway quite as quickly, as these living residents are a diminishing source of valuable historic information.

Also, to fine-tune the purpose of the study, we suggest the following revision:

Conduct a ~~traditional access~~ study of pre-ANILCA activities and associated methods of access. The study will be conducted in cooperation with...

Rational for this technical revision: Since the study is intended to inform management decisions under both Sections 811 and 1110(a) of ANILCA, we recommend avoiding the term “*traditional access study*.” The term “*traditional access*” does not occur in ANILCA. Section 811 addressed methods of access “*traditionally employed*” and Section 1110(a) refers to “*traditional activities*,” such as hunting, fishing, trapping, camping, and overland travel. More importantly, neither Section 811 nor 1110(a) existed prior to ANILCA, so it would be inappropriate to retroactively apply any of these descriptors during the interviews intended to gather raw use information. The main point of the interviews is to find out what people did and what method(s) of access they used. The subsequent review would be the appropriate time to categorize the data for analysis and management purposes.

Page 2-12, Objective 4: We understand the intent of this objective; however, we recommend citing an example, other than moose harvest regulations, to illustrate how varying laws and regulations affect public and private land. State of Alaska hunting regulations apply to all lands – both public and private – unless specifically preempted by federal law on federal lands. Airplane access may be a better example to include in the final plan.

Page 2-81, 2-82, Recommending Rivers and Lands as Conservation System Units: We concur with the plan’s assessment that the current goals, objectives, and management policies provide sufficient protection for wilderness and river values in the refuge.

Page 2-14, Goal 5, Objective 6: We recognize the value in taking advantage of partnership opportunities. The majority of Friends efforts and activities nationwide support the Refuge System's mission by providing valuable services and information to the public, such as volunteer weed pulls, assisting with interpretive programs, or providing funds or labor for trail construction. However, the Service needs to maintain an arms-length relationship with the advocacy side of Friends groups to ensure partnership activities are not only consistent with Department of Interior ethics guidelines, but are also transparent and beyond reproach.

Page 2-91, Map 2-4: This map depicts a closure to private lands. While we recognize current NANA Regional Corporation policy does not allow commercial guiding and transporting, closing private lands is outside the scope of refuge authority. We assume this was an oversight and recommend correcting the map in the final plan.

Page 3-55, Section 3.3.3.5 Invasive Species: This section references AKEPIC 2005 as a source document. We recommend instead using annually updated data on invasive plant locations, which can be found at <http://akweeds.uaa.alaska.edu/>. Also, past invasive plant surveys for the Kotzebue area were conducted by the National Park Service. We recommend the Refuge participate in future surveys and focus on both the general area and refuge access points to identify potential threats and areas that would benefit from active management.

Page 3-88, Section 3.5.1.5 Opportunities for Unconfined Recreation: The second sentence states "*Travel in wilderness usually is by non-motorized and non-mechanical means (e.g. walking or paddling).*" While this may be true elsewhere, Alaska's vast designated Wilderness is more commonly accessed by airplanes, motorboats and snowmachines; hence the need for ANILCA's access provisions that specifically protect these modes of access. If this information is carried forward into the final plan, we request this section specifically reference the ANILCA protected modes of access.

Thank you for this opportunity to comment. Please contact me at (907) 269-7529 if you have any questions.

Sincerely,



Susan Magee
ANILCA Project Coordinator

cc: Sally Gibert, ANILCA Program Coordinator
Jeffrey Brooks, USFWS, Regional Office