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December 12, 1986

Mr. Robert Gilmore
Regional Director
U.S. Fish and Wildlife Service
1011 East Tudor Road
Anchorage, AK 99503

Dear Mr. Gilmore:

In August, the State of Alaska provided comments to the U.S. Fish and Wildlife Service (FWS) on the final Togiak Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness Review (CCP). Since that time, state agencies have initiated a comprehensive review of FWS wilderness proposals and the FWS Policy on Oil and Gas Exploration and Leasing of Alaska Refuges. As a result of this continuing review, which is based in part on recent clarifications of FWS policy, the state has developed the following additional comments on the Togiak CCP.

THE TOGIK WILDERNESS RECOMMENDATION

The State of Alaska does not support designation of 334,000 additional acres of the Togiak refuge as wilderness, as proposed in Alternative CM, the FWS preferred alternative. The state cannot support this recommendation because oil and gas exploration, leasing, and facilities siting would be precluded in this portion of the Togiak refuge, potentially denying the state a source of revenue, jobs and the ability to assess adjacent state lands.

This position is based, in part, on the fact that relative to other parts of Alaska, the "lower 48" and elsewhere in the world, the body of geologic knowledge of the refuge is quite small. As the CCP states:

The northwest and southeast parts of the refuge include margins of the Yukon-Kuskokwim (Bethel Basin) and Nushagak-Bristol Bay Lowlands (Bristol Bay) respectively. The lowland surfaces of these areas are covered with hundreds of feet of glacial moraine and outwash. Thick sedimentary sections are probable, but their oil and gas potential are unknown.

Based on the limited geological and geophysical information that exists for this area, there is sufficient potential for the

discovery of oil or gas within and/or near the refuge that it would be premature to permanently close the refuge to exploration and leasing without more comprehensive data.

Furthermore, although state tide and submerged lands adjacent to the refuge are currently closed by administrative action to oil and gas leasing, the state retains the option to assess and/or lease these lands at some time in the future. In the event that affected state lands are opened to exploration or leasing, refuge lands may be needed for associated geological investigations and geophysical activities as well as for possible land-based support facilities and transportation corridors. In the interest of maintaining the administrative flexibility to permit these activities in the future, the state does not at this time support placement of additional lands in the Togiak refuge in the National Wilderness Preservation System.

Activities and Uses Allowed in Designated Wilderness

The CCP does not provide adequate detail or clarity in its discussion of activities and uses which would or would not be allowed in designated wilderness. The state recently submitted an informal list of questions regarding wilderness management to the FWS Chief of Planning in an effort to better understand wilderness management. (See attachment). The questions cover topics such as the effect of wilderness designation on land exchanges, non-administrative use of mechanized equipment, wildlife habitat manipulation; fisheries development, commercial fishing, and other commercial activities. The state looks forward to reaching a common understanding with the FWS of the effects of wilderness on various uses and management activities. Such an understanding will aid the state in its assessment of future wilderness proposals.

MINIMAL MANAGEMENT

The state also cannot support the administrative, categorical closure of core minimal management areas to compatible oil and gas leasing and facilities siting. As the plan is currently written, it appears that the FWS has determined that oil and gas leasing would be incompatible with refuge purposes in all core minimal management areas. However, this determination appears to be contradicted at various points in the CCP. For example, the following citations indicate that a "final" decision on oil and gas leasing will be made subsequent to completion of the CCP, based on additional information:

Page 223, paragraph 6: "Leasing may be allowed on other parts of the refuge [outside of the Nushagak Peninsula] in the future if it is determined to be compatible and in the national interest. Before leasing would occur, a BLM

assessment of potential, a national interest determination, and a final compatibility determination would be completed." (Emphasis added.)

Page 184: "In minimal management areas leasing would not occur until a determination is made that leasing would be in the national interest and detailed site-specific compatibility determinations have been completed." (Emphasis added.)

Pages 153 and 154 (in the discussion of uses allowed under minimal, cooperative, and special river management): "Oil and gas leasing would not be permitted at this time." (Emphasis added.)

In contrast to the statements above, other portions of the CCP indicate that the FWS has already completed a compatibility determination for leasing in minimal management areas and concluded that in all areas, except for a portion of the Nushagak Peninsula, leasing would be incompatible. For example:

Page 485 (Appendix K -- Summary of Fish and Wildlife Service Policy on Oil and Gas Exploration and Leasing of Alaska Refuges): "The Service will automatically consider oil and gas leasing to be incompatible with the purposes for which the refuge was established on those portions of the refuge that were designated as minimal management in all alternatives of the CCP."

Page 225 (Summary of the alternatives for Togiak refuge): The chart fails to mention that oil and gas leasing may be permitted on non-wilderness portions of the refuge under Alternatives A, B, C and CM, although the chart indicates that compatible leasing may be permitted under Alternative E.

Given these apparent inconsistencies and the resulting confusion, we do not believe the FWS has provided the public with adequate opportunity to review FWS recommendations regarding lands which should or should not be available for oil and gas leasing, as required by Section 1008(b)(2) of the Alaska National Interest Lands Conservation Act. We therefore urge the FWS to clarify in the Record of Decision (ROD) that compatibility determinations for leasing in areas recommended for minimal management will be deferred to future decision-making. The state supports this approach not only to provide the public with an adequate opportunity to comment on leasing decisions, but also to provide the FWS with time to review the Bureau of Land Management oil and gas resource assessment for the Togiak refuge, scheduled for completion next year, prior to considering closure of specific areas.

In addition, the State of Alaska objects to the process the FWS appears to be following in determining which areas should or should not be open to leasing. The CCPs published to date, including the Togiak CCP, lack discussion of why oil and gas leasing, even with stipulations to mitigate impacts, would be incompatible with refuge purposes. In addition, compatibility determinations are being made for relatively vast tracts of lands, as opposed to more discreet units. The state urges the FWS to be more site-specific in its evaluations of compatibility and to provide more detailed justifications for its compatibility determinations.

In closing, we recognize that it may be difficult for the FWS to fully address the concerns expressed in this letter in the Togiak ROD. However, the state has serious reservations about the implementation of the Togiak CCP as currently written. We are thus submitting our concerns for your consideration prior to signature of the ROD. We hope you will address them to the extent possible at this stage in the development of the CCP and in subsequent planning and decision-making.

On behalf of the State of Alaska, thank you for considering these comments. Please be advised that specific comments on the draft ROD will be forthcoming. If we can be of any assistance in clarifying the concerns expressed in this letter, please do not hesitate to call this office.

Sincerely,

Robert L. Grogan
Director



by Michelle Sydeman
CSU Coordinator

cc: Senator Rick Halford, CACFA, Fairbanks
Commissioner Collinsworth, DFG, Juneau
Commissioner Gutierrez, DOT/PF, Juneau
Acting Commissioner Kirkpatrick, DCED, Juneau
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Acting Commissioner Kelton, DEC, Juneau
Acting Commissioner Arnold, DNR, Juneau
Mr. John Katz, Office of the Governor, Washington, D.C.
Mr. Rod Swope, Office of the Governor, Juneau
Alaska Land Use Council Members
Land Use Advisors Committee Members

ATTACHMENT

Questions regarding allowable activities within designated FWS wilderness.

- 1) Would expansion of pre-ANILCA commercial fishing levels or development of new commercial fisheries be permitted on a case-by-case basis, subject to a compatibility determination and reasonable regulation?
- 2) What other opportunities for commercial activities and/or services would be permitted? (e.g., timber use, development of hydroelectric facilities, use of permanent base camps for guiding)?
- 3) Would land exchanges involving wilderness require Congressional approval?
- 4) Will opportunities be provided for the following activities and/or structures?:

Fisheries Development

- Physical habitat modifications
- ** -Physical habitat manipulations
- Chemical habitat modifications
- ** -Hatchery programs
- Aquaculture projects
 - ** Fish weirs
 - Fish ladders
 - Water pipelines for fisheries projects
 - Fish passes
 - Permanent fisheries improvement facilities
 - Permanent spawning channels
 - Permanent support facilities
 - Temporary support facilities
 - Egg takes/sites
 - Supplemental fish production
 - fert. egg plants
 - eyed egg plants
 - unfed fry release
 - fed fry release
 - smolt release
 - catchable fish release
- Predator control (for fish)
- ** -Fisheries processing facilities

Wildlife Habitat Manipulation

- * -Enhancement activities
- * -Restoration activities
- Prescribed burns
- Mechanical manipulation
- Water management for waterfowl, furbearer

-Wildlife stocking

Public Use Management

-Outboard motors

** -Off road vehicles (including nonsubsistence traditional uses)

-Non-administrative use of mechanized equipment (e.g., use of motors, chainsaws, generators by guides/other users).

** - Final Togiak plan indicates activity is "not permitted"

* - Final Togiak plan indicates activity is "restricted"

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