

STATE OF ALASKA

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July 30, 1992

Walter Stieglitz
Regional Director
U.S. Fish and Wildlife Service
1011 East Tudor Road
Anchorage, AK 99503

Dear Mr. Stieglitz:

The State of Alaska has reviewed the U.S. Fish and Wildlife Service Draft Fishery Management Plan for the Selawik National Wildlife Refuge. This letter represents the consolidated comments of the State's resource agencies. These comments are provided to assist the Service in preparation of the final plan. We desire opportunities to discuss these comments if possible prior to publication of the final plan.

The State is disappointed to find the plan unnecessarily repeats points of contention which we have raised in reviews of earlier plans. Discussions between the Alaska Department of Fish and Game (DFG) staff and the Service's fisheries staff last winter resulted in clarification of numerous generic issues and satisfactory resolution in the Kanuti Fishery Management Plan. It was understood by DFG that the resolution of these issues achieved through those discussions would apply consistently to all future plans. We regret having to reiterate earlier issues and hope resolution consistent with the Kanuti plan will be included in the final Selawik plan and all future fishery management plans.

Our specific comments are presented chronologically. They are not presented in order of importance.

Page 1, Summary Statement. The summary statement fails to substantively recognize the required public involvement process in updates and revisions to the fishery management plans. The May 1992 Kanuti fishery management plan has accurately addressed this issue in the Summary Statement. We suggest that the Selawik summary statement include the following:

The planning effort is designed to span a five year period at which time it will be updated through consultation with the public and the Alaska Department of Fish and Game.

Paragraphs 2 and 3 contain major inconsistencies with the Issues and Concerns and Goals and Objectives sections. In addition, we request the following minor edits:

- 1) "a lack of baseline fishery data" is more appropriately "an incomplete baseline", and
- 2) delete "management" and revise the third paragraph to read "administering the fishery program cooperatively with the Department of Fish and Game based on"

Page 2, Introduction. Section 304 of the Alaska National Interest Lands Conservation Act (ANILCA) specifies the requirements of refuge comprehensive conservation plans. Specific language regarding fisheries occurs in Section 304(g)(3)(ii). Neither this language nor other language in ANILCA specifies "managing" fishery resources. The act consistently refers to "conserving" resources. We request that "managing and" in line 5 be deleted so as to correct this misrepresentation of program responsibilities.

Page 3, Land Status; page 4, Map. Though previously requested, this plan does not acknowledge the State's ownership and management authority over tidelands, shorelands, submerged land and waters within the refuge boundaries. We again request that the plan include the same language found in other FWS management plans outlining State ownership and management of certain land and waters within the refuge. An example of appropriate language may be found on pages 26-29 of the Togiak National Wildlife Refuge Public Use Management Plan.

Page 8, Water Rights. This section is not adequate in acknowledging the role of the State regarding water rights. We request that the current paragraph be replaced with the following:

"Federal reserved water rights are created when federal lands are withdrawn from entry for federal use. They are created for the minimum amount of water reasonably necessary to satisfy both existing and reasonable foreseeable future uses of water for the primary purposes for which the land is withdrawn. The priority date is the date the land is withdrawn for the primary purposes.

"Federal reserved water rights in Alaska can be claimed and adjudicated in basin-wide adjudications in conformance with the McCarran Amendment under state law, AS 46.15.165-169 and 11 AAC 93.400-440, either administratively or judicially. Alternatively, federal water rights may be applied for and granted under state law for either out-of-stream or instream water rights. In any case, water claimed or requested must be quantified.

"The Service will work cooperatively with the State of Alaska to inventory and quantify its federal water rights under state law. Water resources of the Arctic refuge will be managed to maintain the primary purposes for which the refuge was established."

Applying for water rights through the State will, in many cases, provide the Service with the senior water rights and save both the State and federal government the cost of a federal reserve water right adjudication. The issue of state water rights will not preclude the federal agency from applying for its federal reserve water rights in the future if the need arises. The Alaska Water Use Act also allows public agencies to apply for reservations of water for instream uses including fisheries, recreation, and water quality purposes.

Page 11 or 12. Not all readers may know that "Inconnu" are commonly referred to as sheefish. We suggest this be noted where the term first occurs in a table and/or discussion.

Page 14, Salmon. Chum salmon return as 3 to 6 year old fish; they do not spend all that time in the ocean.

- Page 16, Human Use. Huslia lies within the Doyon Region boundaries, not the NANA Region as do the other communities listed in this section.
- Page 16, Subsistence Fisheries. This brief discussion does not adequately describe subsistence fishing on the refuge. Readers should be referred to the discussion of subsistence uses generally and of subsistence fisheries in particular on pages 95-109 of the Comprehensive Conservation Plan for further details.
- Page 16, Commercial Fisheries. We request the first sentence be revised to read: "are managed by the Department in two districts:".
- Page 20, Issues and Concerns, "The Possible Overharvest...". The possible overharvest of Inconnu and Northern pike stocks within the boundaries of the refuge may be pursued by the Service as a possible important issue which requires further biological and user assessments. However, listing the "possible overharvest" of fish stocks as the primary issue seems to be unnecessarily pessimistic. There is no evidence that overharvests have occurred or will occur as these fisheries have been managed by DFG for years. If the Service is concerned enough about this issue to seek additional funding for research, we suggest cooperatively developing appropriate studies with DFG to refine the data base.
- Page 20, Issues and Concerns, Aquatic Habitat Alteration.... No data are available to support the statements of stream degradation due to the minor amount of house log acquisition, "operation of boats", and other listed activities which may occur in the refuge area. If the Service desires to cooperate with the State in assessing impacts of such activities, such study should be clarified in this section.
- Page 21, item 4). The surmised use of herbicides and pesticides at an inactive agricultural site needs further clarification. The possibility of contamination affecting water quality of the Selawik River seems overstated unless additional relevant information is missing from this description.
- Page 22, Goals and Objectives. The goals and objectives outlined in this plan do not clarify how they will yield sufficient data to guide subsistence management, e.g. there are no goals and objectives that address the need to gather additional baseline data on the "possible overharvest" issue discussed on page 20.

Objectives I-A and I-B fail to appropriately recognize the State as having primary responsibility for management of the fisheries. Instead, the impression is given that the State is merely responsible for regulating fish harvests. Please revise as follows, consistent with the language in the Kanuti Fishery Management Plan:

Objective I-A. To cooperate with the Department in the administration of the fishery management program on Kanuti Refuge as a continuing commitment through 1997.

Objective I-B. To cooperate with the Department in the regulation of harvest of refuge fish populations in accordance with agency regulations as a continuing commitment through 1997.

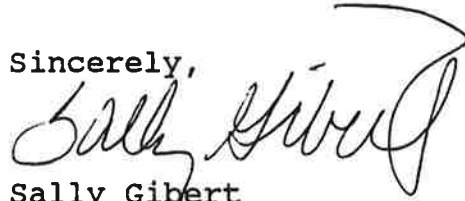
Similarly, I-H indicates intent to develop guidelines for public use. These guidelines should be developed cooperatively with Department plans and regulations as affect management responsibilities such as uses and impacts affecting fish and wildlife. The plan should also clarify that referenced logging is an infrequent, minor activity.

Page 29, Fishery Management Activities, FY 1993-1997, Goal 2. We support the goal of obtaining fishing effort and harvest data for the village of Selawik, which is identified as a priority task for the DFG Division of Commercial Fisheries. The Service should determine if those data will suffice for making management recommendations which might affect fishing activities of other local communities. The DFG Division of Subsistence also should be included in any discussions concerning subsistence fishery harvest data collection or monitoring.

We have identified as a potential study an investigation of the Lower Kobuk/Selawik subsistence whitefish fishery, as local residents are interested in exploring the possibility of marketing whitefish in this region. The absence of biological or subsistence use data prevent managers from determining if a commercial fishery would jeopardize either subsistence harvests or sustained yield. A management planning process involving DFG, the Service, and the public is required before DFG can issue a commercial permit for more than the current level of harvest. Data from the proposed study are required for the planning process.

Thank you for the opportunity to review this fishery management plan. If you have any questions concerning these comments, please feel free to contact this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sally Gibert". The signature is written in black ink and is positioned above the typed name.

Sally Gibert
State CSU Coordinator

cc:

Carl Rosier, Commissioner, Department of Fish and Game
Glenn Olds, Commissioner, Department of Natural Resources
John Sandor, Commissioner, Department of Environmental
Conservation

Frank Turpin, Commissioner, Department of Transportation and
Public Facilities

Richard Burton, Commissioner, Department of Public Safety

CSU Distribution List
Selawik FMP
July 31, 1992

Tina Cunning, Department of Fish & Game, Anchorage
Al Carson, Department of Fish & Game, Anchorage
Terry Haynes, Department of Fish & Game, Fairbanks
Priscilla Wohl, Dept of Environmental Conservation, Anch
Rob Walkinshaw, Department of Natural Resources, Anchorage
Paul Rusanowski, Division of Governmental Coordination, Juneau
Steve Jacoby, Division of Governmental Coordination, Juneau
Stan Leaphart, CACFA, Fairbanks