

STATE OF ALASKA
CITIZENS' ADVISORY COMMISSION
ON FEDERAL AREAS

2011 ANNUAL REPORT



DEPARTMENT OF
NATURAL RESOURCES
3700 AIRPORT ROAD
FAIRBANKS, ALASKA 99709

INTRODUCTION

This Annual Report provides an overview of the activities of the Citizens' Advisory Commission on Federal Areas for 2011. During the past year the Commission continued its work monitoring, reviewing and commenting on an wide-ranging list of federal land management plans, policies, regulations, proposed legislation and projects. Following the pattern established in previous years, the Commission held regular meetings in Juneau, Fairbanks and Anchorage. At those meetings, members of the public and representatives from interest groups and organizations testified about problems and concerns on topics such as access to inholdings, mining, subsistence management, wilderness management, use of cabins, guiding for hunting and fishing, transporting services, proposed federal legislation, land selections and use of the State's navigable waters.

Commission members and staff also met and discussed management and planning activities, regulatory changes, endangered species listings, transportation planning, fish and game management issues, as well as other federal policies and programs with representatives from the National Park Service, U.S. Fish and Wildlife Service, U.S. Forest Service, Bureau of Land Management, and the Department of the Interior. Commission staff continued to provide information to the public on federal land management agencies' activities and to help resolve problems or issues related to use of federal public lands and resources.

As outlined in our 2010 Annual Report, the U.S. Department of the Interior has made significant changes to long standing policies for the planning and future management of federal public lands in Alaska. The February 2010 directive from the Director of the U.S. Fish and Wildlife Service instructing the Alaska Regional Office to conduct a complete wilderness review of refuge lands and waters was prominently reflected in the proposed alternatives in the draft Revised Comprehensive Conservation Plan for the Arctic National Wildlife Refuge released in August 2011. The National Park Service is progressing with the amendment to the general management plan for Gates of the Arctic National Park & Preserve. That plan also will include a wilderness suitability review, with possible recommendations for designation of additional wilderness.

Congressional action in 2011 prevented the implementation of Secretarial Order 3310 which directed the Bureau of Land Management to inventory the wilderness characteristics of all lands under its management and created a new Wild Lands classification for BLM lands. Although the Wild Lands Policy is no longer operable, the agency has been directed to continue conducting wilderness characteristic inventories. These changes in policy and

related actions will affect the status and management of millions of acres of federal lands and the future use of those lands by Alaskans.

BACKGROUND

The Citizens' Advisory Commission on Federal Areas was established originally in 1981 as a temporary advisory agency in the executive branch of the state. Its purpose was to provide assistance to the citizens of Alaska affected by the management of federal lands within the state. The original Commission operated from 1982 until funding was eliminated in 1999. The Commission was reestablished in 2007 by the Alaska State Legislature and resumed full operations in July 2008. The Commission is attached administratively to the Department of Natural Resources, Office of the Commissioner, but operates independently of the department. Its purpose, duties and responsibilities remain unchanged from the original and are outlined below.

DUTIES OF THE COMMISSION

The duties and responsibilities of the Commission are contained in AS 41.37.220:

- (a) The commission shall consider research and hold hearings on the consistency with federal law and congressional intent on management, operation, planning, development and additions to federal management areas in the state.
- (b) The commission shall consider research and hold hearings on the effect of federal regulations and federal management decisions on the people of the state.
- (c) The commission may, after consideration of the public policy concerns under (a) and (b) of this section, make a recommendation on the concerns identified under (a) and (b) of this section to an agency of the state or to the agency of the United States which manages federal land in the state.
- (d) The commission shall consider the views, research, and reports of advisory groups established by it under AS 41.37.230 as well as the views, research, and reports of individuals and other groups in the state.
- (e) The commission shall establish internal procedures for the management of the responsibilities granted to it under this chapter.

(f) The commission shall report annually to the governor and the legislature within the first 10 days of a regular legislative session.

(g) The commission shall cooperate with each department or agency of the state or with a state board or commission in the fulfillment of its duties.

The Commission also may establish advisory groups. Members of an advisory group must be broadly representative of individuals involved in activities affected by the establishment or management of units of federal land within the state.

Although the Commission's role is advisory, it is authorized by AS 41.37.240 to request the attorney general to file suit against a federal official or agency if the Commission determines that the federal agency or official is "acting in violation of an Act of Congress, congressional intent, or the best interests of the State of Alaska."

COMPOSITION

The Commission is composed of twelve members, six appointed by the Governor and six appointed by the Legislature. Commission officers for 2011 were: Chairman, Rep Wes Keller (Wasilla) and Vice-Chairman, Mr. Mark Fish (Anchorage). The Chairman, Vice-Chairman and Mr. Rod Arno (Wasilla) and Mr. Charlie Lean (Nome) comprise the Commission's Executive Committee.

2011 MEMBERS

Rod Arno (S)
Willow

Mark Fish (G)
Anchorage

Rep. Wes Keller (H)
Wasilla

Charlie Lean (G)
Nome

Mike Meekin (H)
Palmer

Sen. Linda Menard (S)
Wasilla

Warren Olson (S)
Anchorage

Colleen Richards (G)
Anchorage

Susan Smith (G)
Chokosna

Ron Somerville (H)
Juneau

Alex Tarnai (G)
Tanana

Frank Woods (G)
Dillingham

(G) Governor's Appointment
(S) Senate Appointment
(H) House Appointment

STAFF

The Commission currently has two staff positions: Executive Director, Stan Leaphart, and Commission Assistant, Karrie Improte. The office is located in the Department of Natural Resources Northern Regional Office, 3700 Airport Way, Fairbanks, AK 99709-4699. (907) 374-3737 or 451-2035. FAX 451-2751.

NEWSLETTER

Commission staff produces a newsletter *Alaska Lands Update* that is distributed electronically to several hundred recipients each month. Printed copies are also distributed at the DNR Public Information Centers in Fairbanks, Anchorage and Juneau.

COMMISSION ACTIVITIES IN 2011

Following is an overview of some of the issues the Commission addressed during 2011. The full text of all comments and correspondence, as well as previous annual reports, meeting minutes and the monthly newsletter can be found on our website at <http://dnr.alaska.gov/commis/cacfa/>. Printed copies of all documents can also be obtained from to the Commission office at the address above.

NATIONAL PARK SERVICE

National Park Compendiums – Each year the National Park Service updates the compendium for each of the Alaskan units of the National Park System. A compendium is a compilation of the designations, closures, openings, permit requirements and other provisions established by the park superintendent under the discretionary authority found in National Park Service regulations. The public is provided a 30 day review period to submit comments on revisions proposed by the agency or to make their own recommendations for changes.

The Commission submitted comments in support of proposed revisions to allow public demonstrations and the distribution of printed materials by groups of 25 or fewer people in all National Park units. We found this revision consistent with a recent District of Columbia Circuit Court decision to allow park visitors to appropriately exercise their First Amendment rights of free speech and peaceable assembly.

The Commission also requested the removal of closures that superseded State Board of Game authorized hunts in Gates of the Arctic and Denali National Preserves, and suggested changes to regulations for access to caves in Wrangell-St. Elias National Park and Preserve; on guidelines for the handling and storage of harvested fish; and camping in Glacier Bay National Park and Preserve.

The National Park Service compendium process has seen many improvements since the agency first began using them in Alaska more than 20 years ago. The most significant improvement has been the addition of the public review process and the opportunity for the public to comment on any proposed changes, closures or restrictions to uses and activities. Another improvement is an annual meeting between the State ANILCA Implementation Program staff and the National Park Service staff, including the chief rangers for each of the park units, to discuss potential compendium revisions and identify other management issues. Commission staff has participated in those annual meetings in each of the last two years.

In spite of these improvements, a number of problems remain. For example, compendiums are regularly used to implement temporary seasonal closures of park areas to certain activities or uses. These temporary seasonal closures often remain in place from year to year. The National Park Service maintains that since the closures are only seasonal, or less than 12 months in duration, they are temporary and do not always require a formal rulemaking. The Commission, however, has consistently maintained that if a closure or restriction is in effect every year, even if it is seasonal, it constitutes a permanent closure. Permanent closures or use restrictions require initiation of a formal rulemaking process. That process requires publication of proposed regulations, public notice, public meetings or hearings in the affected area, and opportunity for public comment. Most importantly, permanent closures or restrictions require a clear finding by the agency that the proposed action is necessary to protect park resources or values.

National Park Oil & Gas Regulations – The Commission submitted comments in response to a Notice of Intent to prepare a programmatic environmental impact statement (EIS) for revisions to the regulations at 36 CFR Part 9, Subpart B. These regulations govern the exercise of nonfederal oil and gas rights within the boundaries of units of the National Park System.

The Commission commented that any revisions to the existing Subpart B regulations must continue to exempt units of the National Park System in Alaska from their application. This exemption has been in place since the adoption of Alaska specific park regulations in 1981. We further recommended that the draft programmatic EIS and any change in the regulations recognize that access to State or private inholdings in Alaskan park units is regulated solely by Title XI of ANILCA and the regulations at 43 CFR Part 36.

We further commented that another key provision of ANILCA which had to be considered in any revision of the Part 9B regulations is found in Section 103(c). This section

specifically excludes State and private inholdings from Alaska conservation system units, including units of the National Park System. This section also prohibits the application of public land regulations, such as the Part 9B regulations, to activities on those inholdings.

By definition, State and private lands are not part of a conservation system unit, even if they lie within the external boundaries of the unit. Consequently, activities on these inholdings, including oil and gas activities or mineral development, are not subject to any regulations applicable solely to the public lands within a conservation system unit. Contrary to the claim made in the November 2009 Advance Notice of Proposed Rulemaking (ANPRM), the general authority found in the National Park Service Organic Act does not supersede the specific exemption found in ANILCA Section 103(c).

Proposed revisions to the 36 CFR Part 9B regulations are scheduled to be released for public comment in mid-2012.

Nabesna Off-Road Vehicle Management Plan – The National Park Service released the final Nabesna Off-Road Vehicle Management Plan and Final Environmental Impact Statement (FEIS) in August 2011. At its meeting in Anchorage in October 2010, the Commission had unanimously endorsed the overall objective of the preferred alternative in the draft plan and EIS. That alternative was designed to allow the continuation of off road vehicle use by subsistence users, general hunters and other recreational users on existing trails within both the park and preserve. Commission members also supported the proposal to improve the degraded segments of the nine trails in the Nabesna area to a maintainable condition so that ORV use could continue. The Commission clearly recognized, as did the draft plan, that off road vehicle use was occurring in this and other areas at the time they were included in the park and preserve when it was created by ANILCA in 1980. Off road vehicle use, for subsistence hunting and fishing, access to inholdings, general hunting and other recreational activities is provided for by ANILCA and its implementing regulations. It represents a legitimate and traditional use within the park and preserve. The Commission fully supports the continuation of ORV use for these purposes.

Unfortunately, the final Off-Road Vehicle Management Plan and FEIS contains a different preferred alternative that when adopted closed the entire park area within the Nabesna District to off road vehicle use to all users except federally qualified subsistence users. The newly crafted alternative fails to adequately recognize the history and tradition of off road vehicle use in both the park and preserve. It also ignores key provisions of ANILCA and the compromises reached during its passage. Under this adopted alternative hunters who hunt under the State general hunting regulations preserve can no longer use trails that pass through the national park to access their hunting areas in the preserve.

In a letter to the NPS Regional Director the Commission strongly protested what it viewed as an ill-considered decision that effectively undermined the open, cooperative and impartial process followed by the Project Manager and the Wrangell St. Elias staff

throughout the planning effort. What was most troubling to the Commission members and others about the last minute change in alternatives is that it appeared to be primarily a decision designed to appease major special interest groups, backed by a massive e-mail campaign opposing any off road vehicle use in the park and preserve, rather than a decision based on an objective and balanced application of the agency's management authorities and prerogatives.

The Commission informed the NPS that it could not support an alternative that would disenfranchise a group of Alaskans, many of whom have a long personal and family history of use of the area. Most Alaskans do not qualify to hunt or trap in the park under Federal subsistence regulations and National Park Service eligibility restrictions, but can legitimately harvest fish and game in the preserve for personal use and consumption under the State of Alaska's general hunting regulations. By prohibiting off-road vehicle use on trails in the park, the adopted alternative will make it much more difficult for them to continue those traditional activities.

The Commission views this as another unfortunate example of the steady 30 year erosion of ANILCA compromises resulting from misapplication of the law and overly restrictive Department of the Interior and National Park Service management policies. Nevertheless, the Commission has committed to work with the Wrangell- St. Elias staff to secure support and funding to upgrade the existing trails so that off-road vehicle use can continue in the Nabesna area.

Denali Park Road Draft Vehicle Management Plan- The Commission submitted comments on the Denali Park Road Draft Vehicle Management Plan and Environmental Impact Statement. This plan was designed to manage public and agency use of the Denali Park Road under an adaptive management approach. In addition to the staff review, Commission members also met with National Park Service officials to discuss the various alternatives in the plan. Members of the public, including property owners in the Kantishna area of Denali National Park, testified before the Commission at its October 2011 meeting.

The draft plan asserts that while the existing seasonal limit of 10,512 vehicles established by the 1986 General Management Plan (GMP) is clearly measurable, a numerical limit alone may not be the best approach for managing use of the park road. The plan proposes to set measurable indicators and standards intended to protect park resources and values along the road corridor using an adaptive management approach.

The Commission review identified a number of deficiencies in the plan, primarily related to a lack of specific information on the actual use levels of the road by vehicle type and how those use levels would be affected by the proposed adaptive management strategy. The Commission also raised objections to the possible closure of the Teklanika Campground to recreational vehicle camping as a way to reduce the number of private vehicles using the

park road. The number of permits issued for recreational vehicle camping are strictly limited and there are additional restrictions placed on those permits. The Commission felt that closure of this campground would deprive an important segment of the visiting public the opportunity to stay in the park without any significant management benefits.

A major change under two of the draft alternatives is the proposal to issue commercial authorizations to those lodge or business operators in Kantishna who currently provide day tours. These day tours are now conducted under the allocated road permits which provide for inholder access under ANILCA Section 1110(b). The rationale used by the NPS for this proposed change is that conducting commercial activity in the park outside the boundary of an inholding is not provided by Section 1110(b). While acknowledging that some form of separate commercial authorization might be necessary, the Commission pointed out that the NPS must continue to recognize the guarantee of access to all park inholdings "for economic and other purposes" provided by ANILCA.

The Commission also has concerns about the type of commercial authorization that could be required if either of these two alternatives is adopted. Day tours provided by the lodges in Kantishna are an important part of their business and should be allowed to continue. We pointed out that this can best be accomplished by issuing operators a commercial use authorization rather than requiring a competitively awarded concession contract. At the same time, the plan must be flexible enough to allow other property owners to develop businesses on their property or to take advantage of future economic opportunities using national park lands.

Finally, the Commission argued against any reduction or permanent reallocation of the trip allocations for Kantishna inholder access under any of the alternatives or under any adaptive management strategy. In addition, the plan must recognize the potential for future increases in access needs for inholders, consistent with the ANILCA guarantee of access for economic and other purposes.

U.S. FISH AND WILDLIFE SERVICE

Unimak Island Caribou Herd- In January 2011, following review of the Environmental Assessment examining management alternatives for the Unimak Island caribou herd, the Commission encouraged the U.S. Fish & Wildlife Service (Service) to allow the action proposed by the Alaska Department of Fish and Game (ADF&G) designed to prevent the continued decline and possible loss of the island's caribou herd.

The Commission endorsed the ADF&G proposal for helicopter supported selective removal of wolves on the calving grounds to protect calves from predation. This was effectively the same action proposed by the ADF&G in 2010. Unfortunately, the department was unable to implement that action due to opposition from the Service.

Because of the seriousness of the situation at that time, the Commission urged the Secretary of the Interior to intervene and declare an environmental emergency under the Department's NEPA regulations. The Secretary failed to act, resulting in the loss of most of 2010's calves and the continuing decline of the UCH.

Ultimately, the Service decided to not allow selective predator control, finding that the action "would have a negative impact on the Service's ability to fulfill refuge purposes, notably conservation of natural diversity and maintaining wilderness character." The Service did agree to allow ADF&G to translocate bull caribou to the island. Both ADF&G and the Service continue to monitor the status of the herd.

Special Use Permit Applications – Commission staff, in cooperation with the State ANILCA Implementation Program, reviewed and suggested revisions for three forms proposed intended to be used as applications for special use permits within the National Wildlife Refuge System. The three forms were designed to replace the single form then in use for all refuges, including those in Alaska. Previously, applications for special use permits for Alaskan refuges were made using an Alaska specific form, but which had expired.

The Commission believes strongly that permits for the use of public lands and resources should be required only when and where absolutely necessary. However, the Commission does recognize that permits are appropriate for certain activities and can be an important management tool. We expressed our support for any action that would reduce the amount of time and paperwork necessary to secure a permit.

Although the proposal was to increase the number of forms used from one to three, the Commission found that, depending upon the activity being permitted, information requirements could be focused more narrowly than with the existing application form. In talking with past applicants and current permittees, staff learned that one problem with the Alaska specific form was that applicants were often required to provide information that was unnecessary or irrelevant to the activity being permitted. Requiring an applicant to submit only pertinent information eases the burden on the public.

While recognizing there were problems with the Alaska application form, the Commission wanted to ensure that replacing that form with the more generalized versions would not result in similar unnecessary information requests or additional burdens to the public unless those forms were carefully crafted.

The Commission also pointed out that each unit of the National Wildlife Refuge System in Alaska was either expanded or created by ANILCA. While the National Wildlife Refuge System Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, and the Refuge Recreation Act of 1962 govern the administration and uses of national wildlife refuges nationwide, ANILCA provides specific authorization and guidance for the management of refuges in Alaska.

The statutory provisions in ANILCA are implemented, in part, by the Alaska specific regulations at 50 CFR Part 36. These regulations "apply to the issuance and administration of competitively and noncompetitively issued permits for economic and/or other privileged uses on all national wildlife refuges in Alaska." The Commission wanted to ensure that any information requests included in the revised application form for a special use permit within an Alaskan refuge would incorporate the guidance found in the ANILCA regulations and that the need for any additional information requests or reporting requirements be fully supported.

Several of the suggested changes submitted by Commission and ANILCA Implementation Program staffs were incorporated in the application forms and instructions prior to final approval by the Office of Management and Budget. The result was a set of application forms which could be used by to secure permits without being required to provide unnecessary or irrelevant information and which reflected appropriate ANILCA provisions.

Selawik National Wildlife Refuge Revised CCP- In February, the Commission met with the Alaska Regional Division Chief for Conservation Planning and Policy and the Selawik National Wildlife Refuge Manager to discuss the Draft Revised Comprehensive Conservation Plan and Environmental Assessment for the refuge.

One element of the plan that was of concern to Commission members was the proposed closure of the western portion of the refuge to commercial guides and transportation services. This proposal was designed to reduced conflicts between local hunters and hunters from outside the area. Many non-local hunters depend on air taxis and transporters to access refuge lands. Restrictions on commercial transportation services would make use of a portion of the refuge unavailable to those non-local hunters.

The Commission acknowledged the conflicts that exist between local subsistence users and hunters from outside the area. These conflicts exist not just on the Selawik Refuge, but throughout the region. These are significant, complex and longstanding conflicts. The Commission understands that the Service, as a major land manager in the region, is faced with the difficult task of balancing competing needs and uses of the Selawik Refuge. Despite the differences between subsistence and non-local hunting groups and the pressures that the Service will face in addressing these conflicts, the Commission did not find that closure of refuge lands was supported by any evidence of biological need or lack of opportunities for local hunters. We were particularly concerned that restricting hunters' access via commercial air taxi or transporters sets an unfortunate precedent.

The Commission unanimously recommended that there be no further access restrictions implemented as a result of the revised plan. That action would have essentially locked in a management restriction for the life of the plan rather than allowing the Refuge manager the latitude and flexibility to respond to changing conditions and circumstances.

The Commission pointed out that should a resource based need arise for restricting non-subsistence harvests in order to meet the priority for subsistence use under ANILCA Section 804, then the regulatory processes of the Federal Subsistence Board and the Alaska Board of Game are more appropriate methods.

The Commission encouraged the Service to continue working with other agencies and interests as part of the GMU 23 Working Group. The Commission felt that implementing restrictions that will affect the ability of the majority of non-local hunters to use refuge resources should not be adopted except in extraordinary circumstances.

The final revised CCP was released in June 2011. The Service adopted an alternative that continues to give the refuge manager the necessary flexibility to issue special use permits for commercial activities on all refuge lands. If conflicts arise related to commercial recreational activities or uses, the refuge has the authority to modify or terminate a specific activity or use under special use permit stipulations. The plan states that the refuge will monitor the number and types of guides and outfitters operating on the refuge and the number of clients. The refuge will, if necessary, further regulate commercial recreation activities and uses.

Wood Bison - The Commission submitted comments on the proposed rule and notice of a 12-month petition finding to reclassify the wood bison under the Endangered Species Act (ESA). The proposed rule would reclassify the wood bison from endangered to threatened.

The Commission fully agreed with the determination that classification of the wood bison as endangered under the ESA is no longer necessary. Furthermore, the Commission favors removal of the wood bison from any listing under the ESA as delisting would likely have a positive effect on wood bison populations. The Commission maintains that delisting would result in a significant increase in the number of free ranging herds and in the wood bison population overall.

The Commission supports the ADF&G application requesting the captive herd located at the Alaska Wildlife Conservation Center in Portage, Alaska be classified as a nonessential experimental population under Section 10(j) of the ESA. We encouraged the Service to move forward quickly on approving that application. This would allow the herd to be released without negatively impacting other activities on State and private lands.

However, the Commission believes that the best long term solution for recovery of the wood bison, particularly through their reintroduction in Alaska, is a complete delisting. Alaska has an abundance of suitable wood bison habitat that could support several free ranging herds. By removing the obstacles and uncertainties caused by the ESA, the population of wood bison could increase dramatically. We encouraged the Service to take the necessary steps to remove the wood bison from the list of endangered and threatened species.

Arctic National Wildlife Refuge – A major undertaking on the part of the Commission was the review of the Draft Revised Comprehensive Conservation Plan (DCCP) and Draft Environmental Impact Statement (DEIS) for the Arctic National Wildlife Refuge. Our review, coupled with significant concerns about the 2010 policy decision by the U.S. Fish and Wildlife Service to ignore key provisions of the Alaska National Interest Lands Conservation Act (ANILCA) regarding wilderness reviews, resulted in a determination that the only acceptable management alternative found in the draft plan was the no action or current management alternative.

The Commission also questioned whether the DCCP and DEIS fully complied with the basic planning requirements of ANILCA 304(g) which direct the Service to prepare a comprehensive conservation plan that examines a wide range of issues. In actuality, the DCCP and DEIS addressed only two questions. The first was whether additional lands within the refuge should be recommended for designation as wilderness. The second was whether additional rivers should be recommended for designation as wild and scenic rivers. The discussion and analysis in the DCCP and DEIS, as well as any proposals for future management actions, focused almost solely on those two points. The development of strategies to address other issues was left for future “step-down” plans. Because of their narrow and limited scope, we concluded that the DCCP and DEIS did not constitute a comprehensive conservation plan, as required by ANILCA.

The Commission supported retention of the current management strategy in the revised CCP, primarily because the existing 8.0 million acres of designated wilderness within the Arctic Refuge represents a reasonable balance for managing and protecting the lands and resources within the refuge.

We pointed out that maintaining the remainder of the refuge in a non-wilderness status has allowed the Service the flexibility to respond to changing circumstances or management needs and has worked well since passage of ANILCA. There is no reason, nor did the DCCP offer a satisfactory justification, to change current management direction. Existing statutory and regulatory authorities, including ANILCA specific regulations related to access, subsistence, public use, recreational activities, taking of fish and wildlife, use and construction of cabins, and commercial visitor services, provide sufficient protections for refuge values and purposes. Wilderness designation would reduce management options by imposing an additional layer of restrictions on the Service, cooperating agencies such as the Alaska Department of Fish and Game and the public.

The Commission's strongest objection to the DCCP was the inclusion of suitability reviews for additional wilderness and wild and scenic rivers within the Arctic Refuge. Conducting these reviews is a direct violation of Sections 1326(b) of ANILCA which states clearly:

*“No further studies of the Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or **for related or similar purposes** shall be conducted unless authorized by this Act or further Act of Congress” (emphasis added)*

A wilderness suitability review was previously conducted under the requirements of ANILCA 1317. There is no other statutory authority for conducting additional wilderness reviews. The recent policy change does not override the clear statutory restrictions in ANILCA

In addition to questioning the Service's authority to conduct wild and scenic river suitability reviews, the Commission strongly objected to the proposed implementation of interim management prescriptions for rivers found suitable for designation.

The Commission also questioned the decision to eliminate from further study in the DCCP consideration or examination of oil and gas leasing or development within the so-called 1002 Area in any of the alternatives. The Service justified its decision on the basis that it has no administrative authority over oil and gas development because under ANILCA 1003 only Congress can authorize oil and gas development in the area. While this is accurate, the Commission argued that without an examination of this key issue, the DEIS is incomplete and does not meet NEPA's requirements.

A final plan and environmental impact statement is due to be released in mid-2012.

U.S. FOREST SERVICE

National Forest System Land Management Planning Rule - The Commission reviewed the proposed revisions to the 36 CFR Part 219 regulations and the *Draft Programmatic Environmental Impact Statement* (DPEIS).

The Commission's first comment was that the Forest Service public outreach effort in Alaska was inadequate. For example, according to the published meeting schedule, Region 1 had public meetings at 3 locations, Region 2 had meetings at 4 locations, Region 3 held meetings at 2 locations, Region 4 had meetings at 25 locations, Region 5 hosted meetings at 3 locations, Region 6 had meetings at 3 locations, Region 8 held meetings at 7 locations, and Region 9 had public meetings at 16 locations. Most of these meetings consisted of 2 separate sessions held at the same location at different times.

Region 10, Alaska, the largest state with the two largest National Forests, had a single meeting in Juneau, although there were two sessions held. The Commission formally requested a second meeting be held in Anchorage, but the request was denied. While the regional forum was webcast, we pointed out that most people in rural Alaska lack the

necessary high-speed internet service to participate in a webcast. We also reminded the Forest Service that travel to Juneau for a two hour meeting would have been difficult and cost prohibitive.

The Commission also objected to the fact that the public was not allowed to make comments on the proposed regulations or the DPEIS at the meetings. Our experience has demonstrated that members of the public, as opposed to organizations or interest groups, are more inclined to present verbal comments at a public meeting or workshop than they are to submit comments in writing. We noted also that the proposed regulations themselves allow for oral comments to be submitted on a planning document or proposal.

Issues relevant to Alaskans are often quite different than those found in other states due to the provisions of the Alaska National Interest Conservation Act (ANILCA). Requirements and responsibilities of federal public land managers in Alaska are also significantly different under this statute. A major deficiency of the draft planning rule was its failure to specifically address the different planning and management requirements found in ANILCA.

The Commission also encouraged the Forest Service to revise the proposed regulation to broaden the scope of who may file an objection to a plan, plan amendment or plan revision. Provisions should also be made for an individual to submit an objection verbally, just as they can submit verbal comments on a plan or plan amendment.

We also pointed out that in order to have a truly transparent process any concerned party should be afforded the opportunity to comment at any point of the public process when comments are being solicited. Opportunity to object to a plan, plan amendment or plan revision should not be limited only to those who previously submitted “substantive formal comments.” This is particularly true when the proposed regulations provide no definition or even guidance on what constitutes a “substantive” comment.

A Final Programmatic Environmental Impact Statement was released in January 2012. The regulations are included in that document. Those regulations contain no reference to ANILCA. A record of decision is expected in March 2012.

White Sulphur Springs Project Appeal – This was a project that proposed the reconstruction and relocation of a Forest Service public use cabin and bathhouse at White Sulphur Springs. The cabin and bathhouse are located in the West Chichagof-Yakobi Wilderness Area on the Tongass National Forest. The Commission originally commented in support of the proposal in December 2010.

When the decision document was signed in August 2011, however, the Forest Service changed the proposed action and decided to remove, but not replace the bathhouse. The agency’s decision was based on a finding that the bathhouse was an amenity that was

inconsistent with wilderness values. According to the decision document, its removal would move the site to a more undeveloped state and improve on the primitive and unconfined qualities of the area. The Commission and a number of local residents and users of the bathhouse questioned that assertion and objected to the decision.

Pursuant to the Forest Service regulations at 36 CFR Part 215, the Commission appealed a portion of the decision. The Commission had standing to appeal under the regulations as it had submitted timely and substantive comments on the proposed action. Five other appeals were filed protesting the removal of the bathhouse, including one by the City and Borough of Sitka and one by the City of Pelican.

The Commission appealed that portion of the decision to remove, but not replace the bathhouse at the White Sulphur Springs site. We noted that the selected alternative, Alternative 2, was the only one of the 5 alternatives discussed in the EA under which the bathhouse was proposed for removal, but was not the proposed action. The November 2010 scoping letter listed several possible actions, but a June 2011 public notice for the project in the *Ketchikan Daily News* stated that the proposed action was to replace the bathhouse, soaking tub and holding tank in their current location. While the final selected action was within the range of proposed alternatives, the Commission was concerned that the late change in the proposed action was misleading to the public.

The rationalization for the decision to remove the bathhouse attempted to justify the action by citing the “ambiguity of the laws and policy involved in this [wilderness] area’s management.” While the Commission agreed that both the Wilderness Act and the Alaska National Interest Lands Conservation Act (ANILCA) do not provide specific guidance on every aspect of wilderness management, we found that the problem was primarily with the Forest Service wilderness management policies. These policies, as currently applied on the Tongass National Forest, simply do not properly reflect Congressional intent with regard to management of wilderness areas in Alaska.

The Commission’s appeal argued that it was both unnecessary and inappropriate to remove the bathhouse. Replacing it with a well designed structure built with materials that blend in, as is planned for the replacement cabin, outhouse and woodshed, would not result in any further loss of wilderness values, if indeed, any realistic loss had occurred. Removal of the bathhouse, which had been in place in one form or another for approximately 90 years, would eliminate a key part of the history of the site with no tangible benefits.

An appeal hearing was held with the Forest Supervisor and the District Ranger in early November 2011. After discussing the issues with all the appellants, who provided excellent and detailed information about the level of use of the bathhouse and its frequent use by fishermen and others for shelter during inclement weather, the Forest Service agreed to modify its decision. The Forest Service elected to proceed with the cabin relocation and delay a decision on removal of the bathhouse pending further analysis and gathering of additional information on the emergency use of the bathhouse as well as the historical,

traditional and cultural use of the structure. All appellants agreed to withdraw their appeals so that the cabin replacement portion of the project could continue. If, after gathering the additional information, the Forest Service decides to still remove the bathhouse, all appellant have the right to re-file their appeal.

The Sitka Ranger District developed a supplemental information form which was made available on the Forest Service website. The agency also published notices in the local newspapers advising the public of the modification of the decision. The Commission also included the form in its December newsletter. A final decision is anticipated in May, 2012.

BUREAU OF LAND MANAGEMENT

Trapping Cabin Policy – Since shortly after resuming operations in 2008, the Commission has worked with the BLM in an attempt to revise the longstanding trapping cabin policy for Alaska. This is actually the continuation of an effort initiated by the Alaska Department of Fish & Game and the BLM in 2006. Commission members and staff met with a number of trappers, including the Alaska Trappers Association, to discuss concerns with the current policy which has been in place since 1987. Several meetings were also held with BLM officials to discuss possible revisions. Some progress was made, but no agreements were reached on specific revisions.

Finally, in March 2011, the Commission wrote to the BLM State Director asking the agency to take the logical next step and initiate a formal public process. A formal process would provide trappers and other interested individuals an opportunity to suggest changes and to review any proposed changes to the existing agency policy for permitting the use and construction of trapping cabins. In response to the Commission's request, the State Director decided to refer the issue to the BLM Resource Advisory Council (RAC) and asked that group to advise him regarding the need for a policy revision.

The Commission submitted written comments to the RAC at its April 2011 meeting in Anchorage. Those comments pointed out what we had learned in our discussions with trappers. Current cabin policy contains economic criteria that are difficult, if not impossible, for the majority of trappers to meet. Because the BLM classifies trapping cabins (other than those permitted for use by federally qualified subsistence users) as commercial cabins, existing policy requires that the commercial activity generate at least 25% of an individual's annual gross income before a lease or permit for cabin use or construction will be issued. Every trapper the Commission heard from clearly felt that this figure is not feasible and does not reflect current economics with respect to trapping.

The RAC formed a subcommittee to make recommendations for revisions to the cabin policy and at presented those at its November 2011 meeting in Fairbanks. Commission

staff reviewed the subcommittee's recommendations in consultation with the Alaska Trappers Association and individual trappers and presented testimony supporting those recommendations. The RAC adapted several recommendations for revising the cabin policy and submitted those to the BLM State Director. A final decision from the BLM State Director on the policy revision is pending.

Land Segregation Regulations - The Bureau of Land Management proposed regulations to allow the temporary segregation from the operation of the public land laws any public lands included in a pending or future wind or solar energy generation right of way application. The proposed rule would also allow segregation of public lands identified by the BLM for a potential future wind or solar energy generation right of way.

The Commission generally supported the intent of the proposal rule to prevent resource conflicts, including conflicts arising from the location of new mining claims on lands that are proposed for various types of land disposals, such as land sales, land exchanges and land transfers. It was our understanding that there have been several recent cases where mining claims have been located on lands proposed for an energy generation right of way solely for the purpose of creating a compensable property interest rather than for legitimate mining purposes. The Commission agreed that was an abuse of the mining laws and should be prevented. However, our discussions with representatives of the mining industry here in Alaska indicated that, as written, the proposed rule would have a negative impact on legitimate mining projects.

The proposed rule would allow the BLM to segregate lands by simply publishing a *Federal Register* notice that includes a description of the lands covered by the segregation. No provisions is made for the public to comment on the segregation, nor is there any requirement that the notice contain a determination of the need for the segregation. The Commission recommended that this section be revised to provide for a public review and comment period of at least 30 days for any proposed segregation. The opportunity for a public meeting or hearing should also be provided. We further recommended the regulations require publication of a clear statement of findings to support the need for the segregation.

Our review concluded that the regulations, as proposed could allow an unnecessary and arbitrary segregation of land to occur. The proposed regulations also failed to provide a clear process or guidance on how the BLM will identify lands with potential for wind or solar power electrical generation. We suggested revising the regulations to authorize the segregation of public land for potential rights of way for potential electrical generation from wind or solar sources only if those lands have been indentified in conjunction with the preparation or revision of a resource management plan. The Commission also recommended that there should be no separate study solely for the purpose of identifying lands for potential rights of way for electrical generation from wind or solar sources.

The BLM was also reminded that, consistent with the provisions found in Section 1326 of ANILCA, any segregation of public lands in Alaska in excess of 5000 acres is the functional equivalent of a withdrawal. Consequently, any segregation of more than 5,000 acres of public lands in Alaska under these proposed regulations could only be for one year and would only become effective upon publication of public notice in the *Federal Register* and notice to both Houses of Congress. The segregation would terminate unless Congress passed a joint resolution of approval within one year after the notice of the segregation was submitted to Congress. We suggested revisions to the proposed regulations to reflect the acreage restriction and procedural requirements for federal public lands within Alaska.

Delta River Special Recreation Management Area Plan – In August 2011, the Commission formally protested decisions made in the Proposed Delta River Special Recreation Management Area (SRMA) Plan and East Alaska Resource Management Plan (RMP) Amendment. In May 2010 the Commission submitted substantive comments on the draft environmental assessment and plan. The protest was filed because our review of the final plan clearly indicated that most of those comments were either dismissed or inadequately addressed by the agency.

A major deficiency in the planning process was the lack of adequate opportunities for public participation during the review period for the draft environmental assessment (EA). The original public comment period was limited to only 30 days. It was extended to 45 days only after the Commission and others made requests for additional time. Even then, the public was advised of the 15 day extension only 2 days prior to the end of the original comment period.

No public meetings were held during the comment and review period. This further reduced the public's opportunity to comment. The Commission submitted a request for public meetings to be held to the Glennallen Field Office manager and the Anchorage District Office manager, but the request was denied. The Commission explained that extensive experience has shown that members of the public are more likely to present comments or testimony at a public meeting than to submit written comments. This is particularly true in rural Alaska. In addition, public meetings would have provided an opportunity for the public to ask questions and better understand the recently adopted and confusing Benefits Based Management (BBM) Planning process that was used to develop this plan.

The deficiencies in the BLM's approach to the public process for this planning effort were further exemplified by the manner in which the wilderness characteristic issue was addressed. After the issue was basically dismissed in the scoping report, the draft EA contained very little information related to wilderness characteristics within the Delta WSR corridor. The EA provided no information on how the presence or absence of wilderness characteristics in a zone would drive management decisions affecting recreational activities

and opportunities. Consequently, the public had little information on which to base comments or assess the connection between management decisions and potential wilderness characteristics. The Commission protested the fact that the wilderness characteristic inventories were conducted after the draft plan was released and not made available for public review or comment.

In its protest letter, the Commission also objected to the plan to discourage use of motorboats and airplanes in several of the management zones within the river corridor. It was pointed out that use of aircraft and motorboats is allowed in all conservation system units, including wild and scenic river corridors, under Title XI of ANILCA. Any closure or use restrictions must follow the criteria and procedural requirements found in the Title XI regulations.

As of the date of this report, the BLM has not responded to the Commission's protest.

OTHER ACTIONS AND ISSUES

Joint Pacific Alaska Range Complex Modernization and Enhancement EIS – The Commission submitted scoping comments on this proposal that would expand several military operation areas used for training purposes by both the U.S. Army and U.S. Air Force. A primary concern heard from residents of the affected region and others is air safety related to low level military aircraft operations. Other issues identified included possible negative impacts on the Nelchina Caribou herd calving and migration, impacts to waterfowl nesting, staging and migration, moose winter range and fish stocks. This expansion also could introduce negative impacts from high noise levels over important recreation areas along the Richardson and Denali Highway corridors, Summit, Paxson and Fielding Lakes, Lake Louise, and the Gulkana, Delta and Wood Rivers. The Commission also urged a minimum 90 day public comment period once the draft document is released, as well as public meetings in all affected communities. The draft EIS is planned for release in mid 2012.

Federal Subsistence Management Regulations – The Commission submitted comments supporting proposed revisions to federal subsistence management regulations that would change the composition of the Federal Subsistence Board (FSB). The proposed revision would add two public voting members to the FSB. This proposal was the result of suggestions made during the 2009 -2010 review of the Federal Program.

The revised regulations were adopted and in December 2011, two public voting members were appointed to the FSB by the Secretary of the Interior and the Secretary of Agriculture.

Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act- S. 730 – Over the last two years the Commission has given much thought and thorough consideration to this proposed legislation that would finalize the ANCSA selections for Sealaska Corporation. Commission members and staff have met with representatives and shareholders of the corporation and Congressional staffs. We have also heard extensive testimony from members of the public both supporting and opposing the proposal. The Commission formed a subcommittee in 2010 to develop recommendations on a previous version of the legislation. A number of those recommendations were incorporated into S. 730, the bill now under consideration. There is a similar companion bill under consideration, H.R. 1408.

In November 2011, after considerable deliberation, the Commission determined that it could not support the legislation as it is currently written. There were several factors that led the Commission to its decision. These included concerns about the possible effects of the selections on the conservation strategy for the Tongass and an increased potential for listings under the Endangered Species Act. The Commission also could not support the designation of 150,000 acres of new conservation areas on a national forest that already has 5.7 million acres or designated wilderness and more than 700,000 acres of congressionally designated Land Use Designation II areas, which are managed virtually as wilderness.

The Commission has heard many public concerns about the conveyance of some 30 sites identified for future economic development, recreational and renewable energy projects that encompassed existing community recreational and subsistence use areas. And finally, while the provisions for public access across corporation lands were improved over previous versions of the bill, many residents in Southeastern Alaska remain apprehensive about the potential loss of access.

The Commission continues to support the successful completion of Sealaska Corporation's land selections and the final conveyance of its lands. Completion of this process will provide continuing economic opportunities for the corporation, its shareholders and other residents of Southeastern Alaska. We recognize that Sealaska Corporation is a significant economic force in the region, providing several hundred direct and indirect jobs. Forty years after the passage of ANCSA, it is well past time for Sealaska's selections to be finalized and its lands conveyed. The Commission remains committed to finding a solution that will accomplish this in a manner that is fair and equitable to all of the residents and communities who depend on the resources of the Tongass National Forest.

CONCLUSION

During 2012 the Commission will continue to expand its outreach efforts to individuals, user groups and organizations. We will also continue to provide the public with information

and updates on federal land management issues and activities. Monthly distribution of the electronic newsletter will continue via e-mail and also made available on the Commission website.

The Commission will continue to develop and expand its working relationships with federal agencies and will work diligently to keep those relationships productive. Our focus will be on finding ways to resolve conflicts in a positive manner. At the same time, the Commission will closely monitor changes in policy and management direction that could affect Alaskans' rights and guarantees under ANILCA and other federal statutes.

Citizens' Advisory Commission on Federal Areas
Stan Leaphart, Executive Director

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Conservation System Units and Federally Designated Areas in Alaska

National Park Service

Park Unit	Size in Acres	Wilderness Acreage
Aniakchak National Monument & Preserve	514,000	0
Bering Land Bridge National Preserve	2,457,000	0
Cape Krusenstern National Monument	560,000	0
Denali National Park & Preserve	6,028,200	2,124,783
Gates of the Arctic National Park and Preserve	7,592,000	7,167,192
Glacier Bay National Park & Preserve	3,283,000	2,664,876
Katmai National Park & Preserve	4,268,000	3,384,358
Kenai Fjords National Park	567,000	0
Klondike Gold Rush National Historical Park	113	0
Kobuk Valley National Park	1,710,000	174,545
Lake Clark National Park & Preserve	3,363,000	2,619,550
Noatak National Preserve	6,700,000	5,765,427
Sitka National Historical Park	113	0
Wrangell-Saint Elias National Park & Preserve	12,318,000	9,078,675
Yukon-Charley Rivers National Preserve	1,713,000	0
Alagnak Wild and Scenic River	30,665	0
Aleutian World War II National Historical Area	134	0
Total	51,104,225	32,979,406

U.S. Fish & Wildlife Service

National Wildlife Refuge	Size in Acres	Wilderness Acreage
Alaska Maritime National Wildlife Refuge	3,417,756	2,576,320
Alaska Peninsula National Wildlife Refuge	3,563,329	0
Arctic National Wildlife Refuge	19,286,242	8,000,000
Becharof National Wildlife Refuge	1,200,060	400,000
Innoko National Wildlife Refuge	3,850,321	1,240,000
Izembek National Wildlife Refuge	311,075	307,981
Kanuti National Wildlife Refuge	1,430,160	0
Kenai National Wildlife Refuge	1,912,425	1,354,247
Kodiak National Wildlife Refuge	1,980,270	0
Koyukuk National Wildlife Refuge	3,550,080	400,000
Nowitna National Wildlife Refuge	1,560,000	0
Selawik National Wildlife Refuge	2,150,161	240,000
Tetlin National Wildlife Refuge	700,058	0
Togiak National Wildlife Refuge	4,100,857	2,272,746
Yukon Delta National Wildlife Refuge	19,162,296	1,900,000
Yukon Flats National Wildlife Refuge	8,632,224	0
Total	76,807,314	18,691,294

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U.S. Forest Service

National Forest	Size in Acres	Wilderness Acreage
Tongass National Forest	16,773,804	5,753,548
Chugach National Forest	5,491,580	0
Total	22,265,384	5,753,548

National Forest Wilderness and Wilderness Study Areas	Size in Acres
Kootznoowoo Wilderness (Admiralty Island National Monument)	956,255
Misty Fjords Wilderness (Misty Fjords National Monument)	2,142,442
Coronation Island Wilderness	19,232
Chuck River Wilderness	74,298
Endicott River Wilderness	98,729
Karta River Wilderness	39,889
Kuiu Wilderness	60,581
Maurille Islands Wilderness	4,937
Petersburg Creek-Duncan Salt Chuck Wilderness	46,849
Pleasant/Lemusurier/Inian Islands Wilderness	23,096
Russell Fjord Wilderness	348,701
South Baranof Wilderness	319,568
South Etolin Wilderness	82,619
South Prince of Wales Wilderness	90,968
Stikine-LeConte Wilderness	448,926
Tebenkof Wilderness	66,812
Tracy Arm-Fords Terror Wilderness	653,179
Warren Island Wilderness	11,181
West Chichagof-Yakobi Wilderness	265,286
Nellie Juan - College Fiord Wilderness Study Area	1,412,230
Total	7,165,778

Bureau of Land Management

Designated Area	Size in Acres
Steese National Conservation Area*	1,208,624
White Mountains National Recreation Area	998,702
Central Arctic Management Area – Wilderness Study Area*	478,700
Total	2,686,026

BLM Wild and Scenic River Corridors	River Miles	Size in Acres
Beaver Creek Wild and Scenic River*	111.0	71,040
Birch Creek Wild and Scenic River*	126.0	80,640
Delta Wild and Scenic River*	62.0	39,680
Fortymile Wild and Scenic River*	392.0	250,880
Gulkana Wild and Scenic River*	181.0	115,840
Unalakleet Wild and Scenic River*	80.0	51,200
Total	952	609,280

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National Trails System	Miles
Iditarod National Historic Trail*	418.0
Total	418.0

* Component of the National Landscape Conservation System (P.L. 111-11)

National Wild and Scenic Rivers

Within the National Park System

River	Park Unit	River Miles
Alaganak	Katmai National Preserve	67.0
Alatna	Gates of the Arctic National Park	83.0
Aniakchak	Aniakchak Nat. Monument & Preserve	63.0
Charley	Yukon-Charley Rivers Nat. Preserve	208.0
Chilikadrotna	Lake Clark National Park & Preserve	11.0
John	Gates of the Arctic National Park	52.0
Kobuk	Gates of the Arctic Nat. Park & Preserve	110.0
Mulchatna	Lake Clark National Park & Preserve	24.0
Noatak	Gates of the Arctic Nat. Park and Noatak National Preserve	330.0
North Fork of the Koyukuk	Gates of the Arctic National Park	102.0
Salmon	Kobuk Valley National Park	70.0
Tinayguk	Gates of the Arctic National Park	44.0
Tlikakila	Lake Clark National Park & Preserve	51.0
	Total	1215.0

Within the National Wildlife Refuge System

River	Refuge Unit	River Miles
Andreafsky	Yukon Delta National Wildlife Refuge	262.0
Ivishak	Arctic National Wildlife Refuge	80.0
Nowitna	Nowitna National Wildlife Refuge	225.0
Selawik	Selawik National Wildlife Refuge	160.0
Sheenjek	Arctic National Wildlife Refuge	160.0
Wind	Arctic National Wildlife Refuge	140.0
	Total	1027.0