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U.S. Fish and Wildlife Service
Arctic NWR – Sharon Seim
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Fairbanks, AK 99701

re: Comments on the Draft Revised Comprehensive Conservation Plan, Environmental Statement, Wilderness Review and Wild and Scenic River Review for the Arctic National Wildlife Refuge

These comments are offered on behalf of the national organization of Wilderness Watch as well as its Alaska Chapter. Wilderness Watch is a non-profit conservation organization dedicated to education and advocacy for protection and proper stewardship of our Nation's National Wilderness Preservation System. Its members include many long-term Arctic Refuge professionals, and citizen activists, including one of the leaders of the campaign in 1960 to establish the original Arctic Range.

Having just celebrated the fiftieth anniversary of the establishment of the Arctic Refuge, we are now at a point of historic opportunity to embark on a new and improved era of stewardship of this incomparable wild place. Because the Arctic Refuge is recognized as our nation's largest and most complete wilderness landscape, the Final Revised CCP for the Arctic Refuge should establish the highest standards for wilderness stewardship which will assure the Refuge will remain wild and free of human control, and serve as the benchmark for the entire National Wilderness Preservation System.

Wilderness Review and Recommendation

We are pleased that the Draft CCP includes a wilderness review for the entire Refuge. It meets legal requirements to do so, and is the first time that this has been accomplished. We strongly support Alternative E which recommends Wilderness designation of nearly all of the non-designated lands in the Refuge, including the coastal plain. This would best protect the integrity of the entire Refuge and fulfill the vision of those who originally advocated for its establishment. Wilderness designation for the entire Refuge would also assure that wildness and natural processes will remain as the permanent defining qualities of the Refuge. Furthermore, this Alternative is the only one which would consolidate nearly the entire Refuge under the provisions of the Wilderness Act, providing the most appropriate stewardship and strongest protection.

This is a critical point in the history of the Refuge. Now is the time to speak for the whole Refuge and its integrity. We urge that the Final CCP include a recommendation that all of the non-designated lands of the Arctic Refuge that were found to be suitable in the Wilderness Review, be designated as Wilderness.

Refuge Goals, and Management Guidelines

We found the Refuge Goals to be very appropriate and inspiring. We support them in general, however the word “*essentially*” should be deleted from Goal 1. This term is unnecessary and detracts from the over-all intention that ecological process remain free of human interventions. In particular, we support Goals 1 and 2 because they recognize the great value of the Refuge as a place where ecological processes can be free of human intent to control them, and where wildness and wilderness character are preserved. They should be retained in the Final CCP.

Goal 5 is also of particular importance in that it speaks to the type of recreational values such as adventure, independence, self-reliance, exploration and solitude that motivated the Refuge founders to establish the Refuge, and for which the Refuge is renowned. We believe these qualities are extremely rare opportunities in the world today, and that management must be conducted in a manner that does not interfere with these very fragile values.

Goal 6: The Final Plan should modify this goal to specify that natural systems will be allowed to adapt and evolve (non intervention), consistent with Management Guideline 2,4.10.1

Management Guideline 2.4.11: We also strongly support the provisions of Management Guideline 2.4.11 which would keep Refuge wildlife habitats unaltered and unmanipulated, and not favor one species over another, but rather allow for natural processes to function.

Management Guideline 2.4.12: We fully support Guideline 2.4.12 which in similar manner as 2.4.11, would establish management intent to allow the diversity of life in the Refuge to continue with their inherent natural behavior, interactions and cycles without human intervention.

Management Guideline 2.4.12.7: Recognizes that the ecological inter-connections of all life within the Refuge and management would strive to allow natural dynamics to continue without human interference. We support this approach, however, note that in the Final CCP this guideline should clearly state that predator control and Intensive Management activities totally conflict with the purposes of the Refuge and the preservation of wilderness character, and should be prohibited.

Management Guideline 2.4.15: We support this important guideline which recognizes self-reliance, and preservation of opportunities for adventure, discovery, solitude and isolation as essential recreational experiences because they are the type of recreation which the Refuge founders had in mind, and that the Wilderness Act contemplated, and that the Refuge is uniquely suited to provide. We also support this because it commits the Service to employ the least intrusive means for public use management. The Final CCP should strengthen this part of the Management Guidelines by referencing the Special Values of the Arctic Refuge as a justification for this important approach to recreation and public uses in the Refuge.

Special Values of the Arctic Refuge

We believe that this section of the Draft CCP does an excellent job of identifying the complete spectrum of special values that are associated with the Arctic Refuge. These qualities were first recognized by the founders and are what the Refuge is famous for. This important documentation should remain unaltered and retained in the Final CCP. Furthermore, the special values of the Refuge should be used to guide every management decision.

Objective 1.1: We support Objective 1.1 but the strategy should identify more explicitly that in some instances, Refuge ecosystems will be allowed to adapt/evolve to a state which is different than historical conditions. The strategy should clearly state that active manipulation of habitats and populations will be avoided and that Refuge ecosystems will be allowed to adapt or evolve to a new natural stasis.

Objectives 1.2, 1.3, and 1.4, 1.5: We recognize the need for ecological monitoring but recommend that Objectives 1-2, 1.3 and 1-4 be integrated so that these improvements can be accomplished more effectively. Likewise, initiatives relating to climate change (Objective 1-5) should be integrated with over-all ecological monitoring. The Final CCP should clearly specify that all investigations will be the least intrusive possible, consistent with preserving wilderness character and non-intervention principles that are established in the Management Guidelines (2.4.11, 2.4.12, and 2.4.12.7).

Objective 2.3: Wilderness Stewardship Plan: We believe that due to the long standing issues regarding unregulated visitor use and impairment of wilderness character in several areas of the Refuge, the Final CCP must commit the Service to initiate an appropriate wilderness stewardship and/or visitor use planning process as soon as the CCP is finalized. Furthermore, we are concerned that language such as “*prolonged scoping and preplanning phases...*” (Page 2-7) signals more delay on the part of the Service in addressing this urgent need. These concerns would normally seem unreasonable, however, due to the nearly 30 years of neglect of this issue on the part of the Service, there is reason for our concern. (please see our further comments under the heading: Wilderness Stewardship and Visitor Use Issues).

Objective 2.4: Comprehensive Wilderness Management: We generally support this objective, however, we recommend that in the Final Plan it be modified to include restoration of wilderness characteristics where they have been degraded or impaired within designated Wilderness. The means for restoration should be determined through a minimum requirements analysis. The Draft CCP only addresses restoration on minimal management lands.

Objective 2.5: Administrative Facilities: The “*Rationale*” should also point out that these facilities are located within the Neruokpuk Lakes Public Use Natural Area (PUNA) as well as in the designated Wilderness. The buildings at Peters Lake are out of conformance with the Wilderness and PUNA purposes. Their removal should be a required action in the Final CCP. Facilities located at Big Ram Lake, built before refuge designation, are also inconsistent with Refuge purposes. The Final CCP should require their removal as well.

Objective 2.6: Wilderness Character Monitoring: We generally support this in concept, however, we are concerned that wilderness qualities have already degraded in some areas of the designated Wilderness, and the Draft CCP does not commit to address this long standing issue in a timely enough manner. (please see our further comments directly below).

Wilderness Stewardship and Visitor Use Issues

For nearly thirty years it has been widely known that unregulated visitor use has resulted in degraded wilderness qualities in several areas of the Refuge. Concern over such conditions has been expressed by Refuge staff, in public comments, letters of complaint, news articles and in our discussions with Refuge staff over many years. The problem was recognized in the 1988 CCP which committed to address the issue in subsequent “step down” plans, however, no such plans were ever completed. Instead there has been only a few relatively minor administrative measures taken by the Service, primarily for the Kongakut River area.

This issue was once again brought forward by the public during scoping for the current CCP revision process. While many problem issues are recognized in the Draft CCP (D.5 Visitor Use Issues), nearly all are relegated to “considered but eliminated from detailed study.” We are very concerned because the draft CCP primarily addresses only the Kongakut River in the Alternatives and does so with relatively minor measures which do not adequately address the issue. The Final CCP must include the strongest possible commitment that the Service will act to restore wilderness character throughout the Refuge (not just the Kongakut River) to at least the level and quality that existed when Congress designated Wilderness in 1980, and that it will act to prevent degradation in the future. An appropriate wilderness stewardship plan which comprehensively and specifically addresses visitor use issues throughout the Refuge must have top priority. It should be prepared and implemented with adequate monitoring of its effectiveness, as soon as possible.

We are concerned, however, about the Service’s commitment to addressing these issues appropriately, and in a timely manner. The priority and schedule provided on pages 6-3 to 6-6, indicates that wilderness stewardship and visitor use management plans are assigned to second priority status, and would not be completed until 8 or 10 years from now. It is simply unacceptable that America’s premier wilderness has lacked a basic management plan for three decades. Given the long standing problems and degradation of wilderness character associated with neglect and unregulated public use in the Refuge during the past 30 years, and the fact that impairment continues to increase, it is irresponsible to delay addressing these issues for nearly another decade. These plans must be set as priority 1 and the schedule for completion needs to be compressed to no more than 2 years in the Final Plan. **The Service has not fulfilled the legal requirement to preserve wilderness character in designated Wilderness (Section 4(b) of the Wilderness Act). It must not delay for another decade its responsibility to do so.**

In addition, we have the following specific comments regarding wilderness stewardship and visitor use:

- **Pages 4-215, 4-216 and others** In several instances the draft CCP acknowledges that wilderness qualities along the Kongakut River are degraded by high levels of visitor use. The Draft CCP fails, however, to address the fact that the Kongakut is not the only area of the Refuge where values have been degraded. Public comments were submitted during scoping, which included, as an example, photographic documentation of an aircraft landing strip scar on the upper Sheenjok River (in designated Wilderness and within the Wild River corridor) which had occurred since 1980 (see scoping comments submitted by Mr. Greg

Warren for more details). There are many other such examples that have been brought to the attention of the Refuge Manager and staff over a number of years. Omissions of this type render the draft CCP inadequate for meeting the basic requirements to “*identify and describe significant problems*” (Section 304 (g)(2)(E) of ANILCA). The Final CCP must describe and address resource problems in a more thorough and comprehensive manner. Given the wide recognition of long standing wilderness quality degradation on the Kongakut River, and other areas in the Refuge, all alternatives should have included a commitment to address this problem.

- **Page 5-19** In discussion of effects of Alternative A, the text inappropriately claims that by allowing the quality of wilderness opportunities to degrade on the Kongakut (which is the current situation) that the “*freedom and unconfined recreation... may balance the degradation.*” The Draft CCP fails to indicate that the Service is legally bound to preserve wilderness character (Section 4(b) of the Wilderness Act) for such designated areas as the Kongakut. The Service does not have the freedom to “*balance degradation*” by allowing excessive levels of public use in Wilderness.
- **Page 5-29** (near the bottom) The claim is made that in designated wilderness: “*More invasive research methods would be limited or minimized.*” The Final CCP should clearly affirm that invasive research methods are incompatible with Wilderness and will not be authorized.
- **Page 5-30** Claims are made that visitor monitoring on the Kongakut , would support actions that could be taken to prevent thresholds from being exceeded. Given the fact that such measures have been employed for the past 12 years, and wilderness conditions continue to decline, it is clear that this approach is not working, because no effective actions have been taken. With no limits on the number of commercial guides and air taxis (Figure 4-12) and no over-all limits on the number of groups allowed on the River at the same time, the positive effects claimed on page 5-30 are not substantiated by the facts on the ground.
- The need for appropriate regulation of aircraft access in the Refuge is also a widely recognized issue due to a progression of long-term impacts to soils, vegetation, visual esthetics and other wilderness characteristics. The Final CCP must commit to addressing aircraft issues in a manner that incorporates appropriate (reasonable regulations) “*to protect natural and other values*” (Section 1110 ANILCA). Because aircraft access is intimately associated with visitor use and wilderness stewardship, these concerns must be integrated into a subsequent wilderness stewardship plan.
- **Pages 4-236 and 4-237** Another issue of significant public concern, which has been expressed on numerous occasions over the past 30 years, is the facilities located at Peters Lake. The description here, fails to inform readers that these facilities occur within designated Wilderness and the Neruokpuk Lakes Public Natural Area and are inconsistent with the purpose of both land categories. It also exaggerates the 1999 reduction of its footprint by claiming: “*In 1999, the footprint from the original facility was altered and greatly reduced.*” In fact approximately 360 square feet were removed in 1999 (including a generator shed, sauna and Quonset hut), leaving some 1128 square feet still in place. The

description goes on to inflate the importance of the facility for science, when most of the studies that are listed occurred during a brief period some 50 years ago. In subsequent years it has been a haven for “agency leaders” and VIPs probably more that it has been used for studies. A primary reason that it has not been a haven for the field workers is that its access during the summer field season is limited to float planes, whereas wheel aircraft are largely the predominant form of access in the Refuge during summer. Finally, this description claims that “Lake ice usually lasts well into June,” but fails to mention that due to ice thinning and melting around the edge of the lake it is rarely used by wheel aircraft after June 10. The favorable tone of this description contrasts with that given on Page 2-9 which indicates that actually these facilities are not needed. The buildings at Peters Lake are out of conformance with the designated Wilderness. Their removal should be a required action in the Final CCP. Facilities located at Big Ram Lake, built before refuge designation, are also inconsistent with Refuge purposes. The Final CCP should require their removal as well.

- **Page 5-31** (Refuge Operations) The text asserts that designation of Wilderness might limit the use of remote sensing to monitor visitor use due to restrictions on installations. The Final CCP should be modified to acknowledge that if visitor use is appropriately limited and regulated to fulfill the legal requirement to preserve wilderness character in designated Wilderness (Section 4(b) of the Wilderness Act), intensive monitoring and other such management methods employed to facilitate excessive levels of visitor use would not be necessary. Page 5-32 (Cumulative Effects) also contains similar claims that designation of Wilderness might result in greater refuge operations due to increased visitor use, however, this would not be the case if appropriate regulations and limits were placed on visitor use for the purpose of preserving wilderness character.
- **Page 5-64** (Kongakut River) Text in this section claims that if a Refuge wide step down plan is implemented that it might have the effect of reducing attention to Kongakut specific issues. This can be prevented if the Service properly addresses its responsibility to preserve wilderness character. Section 4(b) of the Wilderness Act requires such preservation throughout the wilderness area, no exception is made for areas attracting more visitors. (See our comments above which call for both a comprehensive and specific Wilderness Stewardship Plan).
- **Page M-22:** The term untrammeled is defined as referring to “*the freedom of a landscape from the human intent to permanently intervene, alter, control or manipulate natural conditions or processes.*” Use of the modifier “*permanently*” is not consistent with the intent of the Wilderness Act. To retain the untrammeled condition of designated Wilderness requires foregoing any effort, temporary or permanent to intervene or manipulate the natural processes. The Final CCP should delete the word “*permanently*” from the description of untrammeled because it incorrectly describes a key descriptor for Wilderness.
- **Page M-25:** The definition of *wildness* is limited and incomplete. Like *untrammeled*, *wildness* refers to the state of an ecological system characterized by freedom from the human interest to alter, restrain or control ecological processes and thus not subject to

management interventions or manipulations. Wildness can persist in environments that have been altered or continue to be influenced by external human factors as long as nature's autonomy is respected and ecosystems are allowed to adapt to changes and evolve as they will. We recommend that the Final CCP include the above described definition as it better explains the term which is so crucial to the Arctic Refuge, and a large portion of the public's interest in such a special place.

- **Pages 2-59 and 2-60** (Helicopters): We support the prohibition of helicopter landings for recreational purposes in the Refuge and urge that it be retained in the Final CCP. More restrictions need to be specified in the Final CCP (Management Guidelines) for the use of helicopters by agencies and cooperators.
- **Page 2-71** (Administrative Sites and Visitor Facilities): The Final CCP should clearly indicate in the Management Guidelines that the construction or the placement of any new administrative buildings in the Refuge are prohibited.

State “Game” Management and Refuge Management

The Draft CCP appropriately recognizes the need to coordinate with the Alaska Department of Fish and Game, but it fails to acknowledge that some State goals for managing wildlife such as predator control and ‘intensive management’ would conflict with the Arctic Refuge’s purpose for maintaining wildlife populations in their natural diversity. The Final CCP must clearly indicate that when in conflict with state goals, Refuge purposes and Wilderness Act purposes must prevail. In such cases, the FWS must exercise its responsibility to preempt the state fish and game department and its Boards of Game and Fish. Also, the Final CCP must assure that the primary Refuge purpose to conserve natural diversity will not be compromised by decisions to authorize predator control or habitat manipulation to increase game species for hunting. To ensure clarity to and to dissuade any attempts by the State of Alaska to pursue intensive management programs on Refuge lands, the Final CCP should explicitly preclude artificial manipulation or intensive management of wildlife populations and their habitats to enhance game populations for human harvest. The use of predator control for this purpose should be prohibited in any form.

We are further concerned because the Draft CCP (Page 2-44 Federal, State and Local Governments) proposes that FWS should consider clearly incompatible Alaska actions on a case-by-case basis: *“separate refuge compatibility determinations addressing specific proposals will be required for State management activities that propose predator management, fish and wildlife control...or any other unpermitted activity that could alter ecosystems” of refuges in Alaska.* The Service does not need to initiate a compatibility determination or NEPA process to evaluate a State-sponsored proposal to conduct predator control in Arctic Refuge. Rather, the FWS should incorporate language into the CCP and the draft Compatibility Determinations clearly stating that any State regulation or plan involving the use of predator control that conflicts with federal law or policy and the purposes of the Arctic Refuge will be preempted in the Refuge.

We recommend that Appendix B 1.1 the statement: *“the USFWS and ADFG share mutual concern for all fish and wildlife resources...”* be deleted and replaced with a statement that where the agencies differ, Refuge purposes have supremacy and the state should be preempted.

Compatibility

The standard for compatibility determinations as defined in Section 6(3)(a)(i) of the National Wildlife Refuge Improvement Act of 1997 requires that the USFWS “*not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use,*” that is that the use is compatible with the primary purposes for which the refuge was established

The Draft CCP (Page 2-44) states: “*The Service does not require refuge compatibility determinations for State wildlife management activities on a national wildlife refuge pursuant to a cooperative agreement between the State and the Service where the refuge manager has made a written determination that such activities support fulfilling the refuge purposes or the Refuge System mission.*” We are concerned that by this statement the Service is waiving its responsibility to conduct a thorough compatibility determination which would require public information and input. We further advise that in the case of designated Wilderness, the State:Federal Memorandum of Understanding (1982) does not specifically reference the Wilderness Act and its purposes. The Final CCP should clarify that Wilderness Act purposes and prohibitions are also required to be met before there is any sanctioning of State wildlife management activities. Page G-5 states: “*All management and research activities conducted by ADFG under specific cooperative agreement with the Service to fulfill one or more purposes of the Refuge or the Refuge System mission are not subject to a compatibility determination.*” The Final CCP should provide a complete description of State management and research activities within the Refuge and its designated Wilderness. This information should be presented along with research and management programs of the Service as well as activities of other entities such as University researchers and other. The full range of management and research activities needs to be presented so that the public is properly informed and can determine if these actions may be subject to compatibility determinations and other proper authorizations under the law.

Appendix G Compatibility Determinations

Information provided in several determinations confirms use levels or conditions which suggest that adequate measures to maintain compatibility with Refuge purposes and Wilderness Act are not being met. For example: **Page G-10** acknowledges that damage to vegetated surfaces from aircraft landings has been reported (see our comments above for **Pages 4-215, 4-216 and others**), and states that “*we can limit where commercial operators can land.*” However the “Stipulations Necessary to Ensure Compatibility” that are provided only include such a restriction for the Kongakut River. Extensive public comments provided to the Service over many years have identified damaged vegetation in several areas of the Refuge other than the Kongakut. Yet there have been no other such restrictions established. Text on this page goes on to recognize that “*These are emerging*” *issues that need to be monitored.*” These issues are not just “emerging,” they have actually existed for several years. More monitoring alone will not stop the expansion of damage. **Pages G-20, G-39** also include the “*emerging issues*” and “*need to be monitored*” statements indicating that action to prevent damage or problems is not being taken.

On **Page G-9** it is recognized that: *“There is currently no limit on the number of trips or clients permittees can take to the Refuge, nor is there a limit to the number of commercial air operators permitted to operate on the Refuge.”* The determination for Commercial Recreational Guide Services does not even mention that there is currently no limit on the number of recreation guides that are permitted to operate on the Refuge. Issues such as crowding, and human waste are acknowledged, on **Page G-40** but are only relegated to *“monitoring and assessment.”* We believe that several compatibility determinations fail to adequately analyze how this situation is consistent with preserving wilderness character according to Section 4b of the Wilderness Act. We question the legitimacy of these compatibility determinations.

Commercial Activities

Section 4(d)(6) of the Wilderness Act of 1964 allows commercial services to be performed in designated wilderness *“to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.”* To our knowledge the Service has not determined *“the extent necessary”* for commercial activities under permit within the Arctic Refuge. Indeed, the Draft CCP indicates for example, on Page G-9 *“There is currently no limit to the number of trips or clients, permittees can take to the Refuge, nor is there a limit to the number of commercial air operators permitted to operate on the Refuge.”* It is our understanding that currently there is also no limit to the number of commercial recreation guides permitted to operate on the Refuge. Table 4-12 (Page 4-210) shows a steep, progressive rise in the number of commercial permits issued by the Refuge for 1980, when Wilderness was designated (7 permits) to 2008 when nearly 40 permits were issued. Page D-9 acknowledges that *“non-competitively awarded special use permits are increasing in number year to year.”* The Draft CCP does not report the number of commercial permits for air operators and recreation guides have been issued from 2008 to 2011. The Final CCP should provide this number.

We are concerned that while the public has indicated in scoping that increasing permits and recreational uses are contributing to degraded wilderness character in the Refuge, the Service has decided to add this topic to the list of *“issues considered but eliminated from detailed study.”* Instead this issue is relegated to the possibility of a Visitor Use Management Plan that is given priority 2 and scheduled for completion as late as 2021 (Table 6-1). Looking at the graph on Table 4-12, one could project that there could easily be over 60 commercial air operators and recreation guides permitted on the Refuge by 2021. When is the Service going to determine what level of commercial services is *“necessary”* according to the Wilderness Act? Section 4(b) of the Wilderness Act requires each agency administering designated wilderness *“shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character.”*

The Service received scoping comments recommending that an area free of commercial activity and mechanized access be considered for the Refuge as allowed under the Wilderness Stewardship policy (601 FW 2 E). This recommendation was relegated to *“eliminated from detailed study.”* Although the Service continues to avoid regulating the number of commercial operators, we disagree with the determination to not study this further. We request that the Final CCP include consideration of an area free of commercial activity and mechanized access in a Wilderness Stewardship or Visitor

Use Management Plan. We also recommend that the Final CCP require that a freedom of choice option be included in the above planning process.

At a minimum the Service must place a moratorium on the issuance of any new commercial outfitter permits until an appropriate analysis of the need for commercial services and the extent that they are necessary is completed.

Effects of Hunting on Population Structure and Genetics

The Draft CCP acknowledges that the public expressed concern that trophy hunting for species such as Dall's sheep (which targets old age, mature rams) in the Refuge could have negative effects on populations and genetics with long term negative consequences. This issue was assigned to the category: *eliminated from detailed study* and it was suggested that it may be considered in the Inventory and Monitoring Plan (step down). There are recently published scientific results about the effects of human harvest on a variety of species (Dairmont et al 2009). The Draft CCP goal #1 encourages the perpetuation of ecological processes and Management Guideline 2.4.12 requires management that enables natural behavior, interactions, and cycles. The Service's Biological Integrity, Diversity, and Environmental Health Policy (Service Manual 601 FW 3 mandates the maintenance of the variety of life and its processes on Refuge lands. Furthermore, a primary Refuge purpose is to conserve wildlife in their natural diversity. We recommend that the Final Plan specify that this topic will be addressed in the proposed Inventory and Monitoring/Research plans, and results will be used to guide future management.

Wilderness Values and Science Related Technologies

The Draft CCP acknowledges that this issue was identified during public scoping as a concern, however it decided to eliminate it from detailed study (Page D-6). This is a rapidly emerging problem across the National Wilderness Preservation System and is not being adequately resolved through the existing Minimal Requirement Decision process. Therefore we recommend that the Final Plan include explicit requirements that the issue of science related technologies relative to Wilderness values be addressed in both the Inventory and Monitoring/Research Plan and the Wilderness Stewardship Plan.

The Original Arctic National Wildlife Range's Purposes Apply to the Entire Arctic Refuge

In the CCP, the FWS states that the purposes for which the original Arctic National Wildlife Range ("Arctic Range") was established only apply to those lands in the original Arctic Range: "Under Section 305 of ANILCA, the Range's original wildlife, wilderness, and recreation purposes still apply to those lands in the former Range." DEIS at 1-18. *See also* U.S. FWS Refuge Purposes Arctic National Wildlife Refuge Map, available at: <http://arctic.fws.gov/pdf/ccppurposesp2011.pdf>. However, under FWS's own longstanding policy and guidance regarding determining the purpose of each refuge in the National Wildlife Refuge System, *see* FWS Refuge Management Part 601 National Wildlife Refuge System, 601 FW 1 at 1.16 (July 26, 2006), the purposes of the original Arctic Range apply to *all* Arctic Refuge lands.

The original Arctic Range was established in 1960 “to preserve unique wildlife, wilderness, and recreational values.” Public Land Order 2214 (Dec. 6, 1960). The Alaska National Interest Lands Conservation Act (“ANILCA”) expanded the original Arctic Range by adding 9.2 million acres, included additional refuge purposes and re-designated the unit as the Arctic National Wildlife Refuge. These new, additional purposes include:

- (i) to conserve fish and wildlife populations and habitats in their national diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and graying;
- (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;
- (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents, and
- (iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and quantity within the refuge.

94 Stat. 2390, P.L. 96-487 at §303(2) (Dec. 2, 1980).

As FWS’s longstanding policy and guidance regarding determining expanded refuge purposes clearly states:

When we acquire an addition to a refuge under an authority different from the authority used to establish the original refuge, the addition also takes on the purpose(s) of the original refuge unless Congress determines otherwise, but the original refuge does not take on the purpose(s) of the addition unless Congress determines otherwise.

601 FW 1 at 1.16. In the present case, the Arctic Refuge additions were established under a different authority (ANILCA) than the authority used to establish the original Arctic Range (Public Land Order 2214). Thus, applying FWS’s policy for determining the purposes of a refuge,¹ for FWS’s current determination that the Arctic Range purposes only apply to those lands within the original Arctic Range to hold true, there would need to be some indication from Congressional that the original Arctic Range purposes should not apply to the entire Arctic Range.

¹ We note that FWS appears to have contrary guidance regarding the purposes of refuges established by ANILCA. *See* FWS Refuge Management Part 603 National Wildlife Refuge System, 603 FW 2 at 2.8(B) (Nov. 17, 2000) (stating that “Alaska refuges established before the passage of ANILCA have two sets of purposes. Purposes for pre-ANILCA refuges (in effect on the day before the enactment of ANILCA) remain in force and effect, except to the extent that they may be inconsistent with ANILCA or the Alaska Native Claims Settlement Act, in which case the provisions of those Acts control. However, the original purposes for pre-ANILCA refuges apply only to those portions of the refuge established by the prior executive order or public land order, and not to those portions of the refuge added by ANILCA”). However, because this guidance is found in the FWS manual addressing compatibility of uses of refuges and 601 FW 1 directly address identifying or determining the purposes of refuges, 601 FW 1 is the controlling guidance on this issue.

Nothing in ANILCA indicates that Congress did not intend the original Arctic Range purposes to apply to the entire Arctic Refuge. To the contrary, ANILCA Section 305 states that:

All proclamations, Executive orders, *public land orders* and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act.

P.L. 96-487 (Dec. 2, 1980) (emphasis added). This is a clear statement from Congress that Public Land Order 2214 — which set forth the Arctic Range purposes — was to remain in effect post-ANILCA unless it is inconsistent with ANILCA. The legislative history of ANILCA indicates that Congress did not intend the purposes included in ANILCA for the expanded Arctic Refuge to be the exclusive refuge purposes: “Sections 301, 302 and 303 set forth the purposes for each designated or redesignated unit and additions to existing units. *Enumeration of purposes is not exclusive*, but is set forth as a guide for management.” House Report No. 96-97(I) at 174 (April 18, 1979) (emphasis added).

The purposes set out in Public Land Order 2214 for the Arctic Range are not inconsistent with the purposes set out in ANILCA for the Arctic Refuge; the two authorities set forth overlapping and complimentary purposes recognizing the exceptional wilderness, wildlife, recreation, subsistence resources, international importance, and water quality of the Refuge.² All of the values recognized in both sets of purposes support the other recognized values; for example, recognizing and managing to protect the wilderness values of the Arctic Refuge allows for the achievement and furtherance of protecting the wildlife values.

Thus, ANILCA itself and its legislative history indicate that Congress intended that Public Land Order remain in effect for the newly expanded and redesignated Arctic Refuge and that the purposes included in ANILCA were to be inclusive, rather than exclusive, of existing Arctic Refuge purposes. Accordingly, because these purposes are complimentary and not inconsistent, under FWS’s policy, the purposes of the original Arctic Range apply to the entire Arctic Refuge.

We request that the Final CCP be revised in all appropriate sections to correct the Draft CCP which misconstrues the laws and policies regarding Refuge purposes (as described above).

Conclusion

Our review of the Draft CCP resulted in a mixed assessment. We are pleased that the Service included a full Wilderness Review of all non-designated lands in the Arctic Refuge (as required by law), and we generally found the Goals, Special Values, and Management Guidelines to be exemplary and very consistent with the vision of Refuge founders. However, we also found that much of the remainder of the Draft CCP conflicted with the very spirit of the Goals, Special Values

² The fact that the two sets of purposes are complimentary and not inconsistent is evidenced by FWS’s determination that the pre-ANILCA and ANILCA purposes apply concurrently to those lands within the original Arctic Range.

and Management Guidelines. This conflict is evidenced in the numerous details which we provided above.

We are very concerned about several issues: degradation of wilderness character, excessive public use in several areas, impacts from aircraft landing and use, human waste problems, and rapidly rising commercial activities in the Refuge are a few examples, all of which contribute to impairment of wilderness character. The primary strategy proposed in the Draft CCP is to address such issues in subsequent “step down” plans, however, we are well aware that such a tactic was taken in the 1988 Final CCP, and no step down plans were completed for the last 23 years. Furthermore, the Service proposes that the Wilderness Stewardship and Visitor Use Plans will be priority 2 and schedules them to be completed in 2021. It is entirely unacceptable and should be an embarrassment to Refuge managers that the area has gone for nearly 30 years without a wilderness stewardship plan, and the best current management can do is offer up the possibility that such a plan might be forthcoming in another decade. It is also unacceptable for the public, who have patiently brought forth their concerns during the past many years to be asked to wait another decade for relief from long standing degradation of wilderness character and neglectful stewardship of America’s premier Wilderness.

We recommend that the Final CCP be revised in a manner that elevates the entire document to the quality, intent, and spirit of the Goals, Management Guidelines and Special Values. Now is a critical point in the history of the Arctic Refuge, and we urge that the Service demonstrate strong, bold leadership as the Refuge founders did more than fifty years ago. We encourage you to recommend Wilderness designation for all suitable lands in the Refuge (Alternative E), and to finally implement appropriate wilderness stewardship of this remarkable National treasure, the Arctic National Wildlife Refuge.

Thank you for the opportunity to comment.

Sincerely,

Fran Mauer
Alaska Chapter
Wilderness Watch