

STATE OF ALASKA
CITIZENS' ADVISORY COMMISSION
ON FEDERAL AREAS

2015 ANNUAL REPORT



DEPARTMENT OF
NATURAL RESOURCES
101 AIRPORT ROAD
PALMER, ALASKA 99645

INTRODUCTION

This Annual Report provides an overview of the activities of the Citizens' Advisory Commission on Federal Areas during 2015.

The Commission continues to focus its efforts on monitoring, reviewing and providing recommendations and comments on an extensive list of federal land management agency plans, policies, regulations, proposed legislation and projects. A summary of comments submitted by the Commission can be found later in this report. The Commission provided in-person testimony before two U.S. Senate committees. The Commission held regular meetings in Juneau, Fairbanks and Anchorage. At those meetings, individual members of the public, as well as representatives from state and federal agencies, interest groups and organizations, testified about problems and concerns on topics such as access to inholdings, mineral development, land use designations, administrative preemption of state management authorities, wilderness management, remote cabin authorizations, proposed federal legislation, ongoing litigation and use of state-owned navigable waters.

Commission members and staff also met and discussed management and planning activities, discretionary actions, regulatory changes, transportation planning, fish and game management issues, as well as other 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 Office of the Secretary of the Interior. Commission staff provided timely information to the public on federal land management agencies' activities and worked to help resolve problems or issues related to use of public lands.

In addition to its regular meetings in Juneau (January), Fairbanks (June) and Anchorage (October), the Commission established the Alaska State Lands Advisory Group pursuant to its authority at AS 41.37.230 to operate through June 30, 2017. The group will discuss, develop and submit recommendations to the Commission on the viability and advisability of transferring federally owned public land and/or federal management authorities to the State of Alaska. During 2015, the group met four times, in-person (once in Fairbanks and once in Anchorage) and twice via teleconference. Additional information on the advisory group can be found in a later section of this report.

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 federal land management actions 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 part of the Department of Natural Resources for administrative purposes, but operates independently of the department. Its purpose, duties and responsibilities remain essentially 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 2015 were: Chairman, Rep. Wes Keller (Wasilla) and Vice-Chairman, Mr. Mark Fish (Big Lake). The Chairman, Vice-Chairman, Mr. Rod Arno (Wasilla) and Mr. Charlie Lean (Nome) comprised the Commission's Executive Committee.

2015 MEMBERS

Rod Arno
Wasilla (S)

Sen. John Coghill
North Pole (S)

Mark Fish
Anchorage (G)

Teresa Hanson
Fairbanks (G)

Rep. Wes Keller
Wasilla (H)

Charlie Lean
Nome (G)

Kathleen Liska
Anchorage (G)

Warren Olson
Anchorage (S)

Susan Smith
Chokosna (G)

Ron Somerville
Juneau (H)

Frank Woods III
Dillingham (G)

Mike Meekin
Palmer (H)
through March 2015

Gail Phillips
Anchorage (H)
since March 2015

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

STAFF

The Commission currently has two staff positions: Executive Director Sara Taylor and a Natural Resource Specialist II, which was vacated in June 2015. The office is located in the Department of Natural Resources' Forestry Office at 101 Airport Road, Palmer, AK 99645. Ph: (907)269-3645. Fax: (907)269-5673. Email: dnr.cacfa@alaska.gov.

NEWSLETTER

The Commission produces the *Alaska Lands Update* newsletter, which is distributed electronically to over four hundred recipients on at least a quarterly basis. Archives are posted to the web at <http://dnr.alaska.gov/commis/cacfa/newsletters2.html>.

COMMISSION MEETINGS

The Commission holds three regular meetings each year. The meetings are open to the public and testimony is accepted on any issue related to the management of federal public lands in Alaska. There are four public participation segments at each two-day meeting, and the public is provided a toll-free number to participate if they are unable to attend.

During 2015, regular Commission meetings were held in Juneau, Fairbanks and Anchorage. Minutes of the meetings are available on the Commission's website. Audio and/or video recordings are archived on the Commission's page at www.360North.org for the Juneau and Fairbanks meetings and on Vimeo.com for the Anchorage meeting. Any material distributed at the meetings is available to the public upon request.

COMMISSION ACTIVITIES IN 2015

Following is an overview and summary of comments and recommendations pertaining to federal land management plans, regulations, policies and related issues the Commission addressed during 2015. The full text of all comments and correspondence, as well as previous annual reports, meeting minutes, the newsletter and other information can be found at <http://dnr.alaska.gov/commis/cacfa/>. Printed copies of Commission documents can also be obtained from the Commission office using the contact information above.

NATIONAL PARK SERVICE

2015 Compendium – In January each year, the National Park Service updates its 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 proposed revisions or to make recommendations for changes.

This Commission recognizes the many improvements made to the annual compendium process since the agency first began using them in Alaska more than 20 years ago. The most significant improvement was the addition of the 30-day public review period and the opportunity for the public to comment on proposed changes, closures or restrictions and to suggest other actions. Depending upon the type of regulation or restriction, public meetings were also held to discuss proposed revisions, particularly those involving closures or public use restrictions.

Another improvement in the revision process was 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. At that meeting, potential compendium revisions were discussed along with other potential management issues before the documents were released to the public. Commission staff participated in those annual meetings in each of the last seven years.

In February 2015, prior to the Service's final rule changing how closures and restrictions are enacted (see below), the Commission commented on proposed closures, restrictions and openings for the last time under the Service's informal annual compendium process. In addition to continuing to comment on the Service's unlawful deviation from its regulatory requirements (see the Commission's Annual Reports from 2010-2014), the Commission also commented on several new proposals by the Service.

Two proposed closures implicated the access provisions in ANILCA §1110(a), and only one of those closures actually followed the required process. The Service proposed to prohibit the use of bicycles in the Valley of 10,000 Smokes in Katmai National Park and the use of domestic goats, sheep, llamas, alpacas or related animals in multiple park units.

These proposals would temporarily close areas to a method of non-motorized surface transportation, which is governed by the Department of the Interior's closure process at 43 CFR 36.11(h).

By hosting a public hearing in the community of Naknek, the Service complied with the closure process at 43 CFR 36.11(h) for the bicycle prohibition in Katmai. However, no public hearings took place near Glacier Bay National Park, Kenai Fjords National Park or Klondike Gold Rush National Park, even though domestic animal closures were proposed for those units. On that basis alone, notwithstanding other procedural and substantive deficiencies, the closure process at 43 CFR 36.11(h) was not followed. The Service implemented the domestic animal closure anyway and, in its response to comments, inexplicably argued that since ANILCA §1110(a) only applies to use of these animals as "pack animals," and the proposed closure relates to "all uses" of these animals, it did not need to follow regulations at 43 CFR 36.11(h). The Commission subsequently informed the Alaska Attorney General's Office of this clear regulatory violation by the Service.

Final Regulations Regarding Wildlife Harvest and the Public Participation Process for Management of Alaska Parks and Preserves – For many years, the Service has been using the annual compendium process described above to preempt state harvest regulations in Alaska preserves. The Service acknowledged these were not "temporary" closures in the regulatory sense, but did not move the closures to permanent rulemaking, which was required under the agency's closure regulations.

In September 2014, the Service issued a proposed rule which would amend its regulations to make it possible to permanently close park areas to public use without needing to do so through regulation and with a more limited public process. The Commission submitted comments on the proposed rulemaking package in December 2014 after significant engagement with the public on the ramifications of the proposed regulatory changes.

On October 23, 2015, with no prior notice to either the Commission or the State of Alaska, the Service released its final rule in the *Federal Register*. The final rule codifies some aspects of the annual compendium process, including a public review opportunity for certain harvest-related closures and, responding to the Commission's comments, a written justification of certain proposed actions. One of the primary reasons the compendium process had not been objectionable previously was the fact the Service's regulations often required more. With passage of the final rule, however, the regulatory requirements actually require *less*, and the ability for the public to participate has been fundamentally altered in favor of the Service's discretionary authority.

For example, the annual compendium was supposedly an opportunity to have written documentation of temporary (12 month or less) closures and restrictions in parks and preserves. Permanent closures were still required to go to rulemaking. The simple overview and limited public engagement provided by the compendium process was not sufficient to enable meaningful comments on long-term or complex land management decisions by the agency. However, the final rule has eliminated the rulemaking requirement and made this limited process the default venue for public participation.

Some other particularly noteworthy changes to the public process include:

- Increasing the complexity of the closure process by doubling the number of closure categories, each with its own specific process;
- Adds the authority to temporarily restrict subsistence activities;
- Eliminating certain requirements to consult with affected users prior to closure;
- Eliminating the public notice requirements for all emergency closures;
- Eliminating the public hearing requirement in the affected vicinity for all non-emergency closures and for relaxing or lifting a closure;
- Eliminating the public hearing requirement prior to certain emergency closures;
- Making all public notice methods optional except for Internet-based methods, despite the lack of reliable Internet service throughout communities that intimately rely on park resources, including communities within park units;
- Eliminating the 60-day minimum comment period for proposed rulemaking;
- Eliminating the 30-day maximum on all emergency closures and the 12-month maximum on all temporary closures;
- Making the new 60-day maximum on emergency closures only apply to closures related to the take of fish and wildlife; and,
- Automatically closing areas to the take of fish and wildlife authorized by the State of Alaska which a superintendent determines to be a predator reduction effort, with no public notice or hearing prior to the closure going into effect.

In addition to the public process changes, the final rule unlawfully preempts the State of Alaska's authority to manage wildlife on all lands. Under the final rule, multiple state harvest authorizations are and can be prohibited in parks and preserves based on a forced interpretation of federal law that expands Service authorities to enable individual Service staff to unilaterally trump state regulations based on indeterminate, value-based criteria.

The Commission believes the final regulations are a violation of both the legal duty and sound management responsibility of the Service with respect to public use of Alaska park units. On October 24, 2015, the Commission unanimously voted to formally request the Alaska Attorney General file suit against the National Park Service regarding the final rulemaking. As described in the Commission's February 10, 2016 request:

In the rulemaking, and more particularly in the final rule, the Commission notes violations of the U.S. Constitution, the Alaska Constitution, the Administrative Procedure Act of 1946, the Alaska Statehood Act of 1958, the National Environmental Policy Act of 1969 and the Alaska National Interest Lands Conservation Act of 1980. The congressional intent underlying some or all of the noted statutes could not have been adequately considered by the agencies in light of the resulting rule. Further, the rule unlawfully preempts state management authorities to the significant detriment of Alaskans, both rural and non-rural, and jeopardizes the capacity of the State to meet its constitutional and principled duties to actively manage wildlife resources for sustainable populations and to safeguard Alaskans and our resident wildlife from irreparable harm.

The Commission will continue to monitor the impacts to Alaskans from these regulatory changes while legal action is being considered by the State. Commission briefings on both the proposed and final rule are attached to this report.

Recommendation: Initiate legal action against the National Park Service for violation of federal law, Congressional intent and the best interest of Alaskans in promulgating its final rule on “Hunting and Trapping in National Preserves.”

Revised National Regulations on Oil and Gas Activities in Parks and Preserves – In October 2015, the National Park Service issued a proposed rule which would amend its regulations to more actively manage oil and gas operations occurring within and adjacent to the external boundaries of parks and preserves nationwide. Alaska is currently exempt under the existing regulations pursuant to the special provisions for inholdings found in ANILCA. In prior communications with the Commission and the State, there was some indication that exemption would continue; however, the proposed rule noted that exemption would no longer apply on consideration of the 2014 Ninth Circuit Court of Appeals decision in *Sturgeon v. Masica*, which the Service claimed provides for the regulation of all lands within Alaska park unit boundaries regardless of ownership.

In its December 28, 2015 comments on the proposed rule, the Commission argued again in favor of maintaining an Alaska exemption, either in perpetuity consistent with the special provisions in ANILCA or in the interim while the *Sturgeon* case was on appeal, noting the overturning of any aspect of the Ninth Circuit’s decision could significantly interfere with the rulemaking process. The Commission also commented on multiple aspects of the rulemaking that were unlawful or inappropriate for Alaska and inconsistent with Service authorities.

For example, the proposed regulations would expand Service management and oversight to oil and gas-related activities occurring solely on non-federal lands, both within and outside external park unit boundaries. The Commission commented on the fact this would exceed the Service’s statutory authority, present multiple constitutional violations and be a significant and unjustified deviation from Congressional intent and direction to protect and provide for Alaska park unit inholders. No expected date for publication of the final rule has been communicated to the Commission.

U.S. FISH AND WILDLIFE SERVICE

Revised Final Comprehensive Conservation Plan for the Arctic National Wildlife Refuge – In January 2015, the U.S. Fish and Wildlife Service issued its final Revised Comprehensive Conservation Plan for the Arctic National Wildlife Refuge, including an informal recommendation for the majority of the refuge to be formally designated as Wilderness. Commission Executive Director, Sara Taylor, testified before the Alaska Senate Resources Committee in February regarding the implications of the designation recommendation in light of the statutory provisions in ANILCA.

Only Congress has the authority to designate an area as Wilderness. As such, the recommendation made in the final plan has no legal effect until Congress takes action. However, the plan openly proposes a different style of management for the recommended area (often referred to as “*de facto* wilderness”). To date, neither the Secretary of the Interior nor the President have submitted any formal recommendation to Congress, and Congress has not independently designated additional Wilderness in the Arctic Refuge. In the meantime, however, the area could be managed almost as if it had been designated.

The Commission will continue to monitor the impacts to Alaskans from implementation of the revised plan, including management actions taken in areas recommended for designation, agency recommendations to Congress and action taken by Congress, if any.

Proposed Public Use Regulations for the Kenai National Wildlife Refuge – In May 2015, the Kenai National Wildlife Refuge published a proposed rule in a process which began with the refuge’s 2008 Draft Revised Comprehensive Conservation Plan. Most proposed regulations implemented aspects of the final revised plan and others were new or had additional requirements not anticipated or proposed during the planning process.

The proposed rule was remarkably short on explanation and justification, particularly considering the intensity of potential changes to current management and the number of new proposals which did not receive any public review during the refuge plan revision. For example, the rulemaking newly includes a proposed limitation on the use of firearms in certain areas of the refuge. The narrative in the proposed rule included almost no discussion regarding the rationale underlying this significant limitation, only stating a concern for public safety (without identifying known public safety concerns or user conflicts) and enhanced consistency with state regulations (even though it deviates from state regulations and goes beyond the areas regulated by the State).

The proposed rule also included redundant and unnecessary restrictions, further adding to the complexity of the suite of regulations applicable to refuge users. For example, refuges outside Alaska must be specifically open to public use, whereas Alaska refuges are open to public use unless closed. Despite this accepted legal truism, the Kenai Refuge is proposing to “open” the refuges to natural resource collection (e.g., berries, mushrooms, shed antlers), even though no refuge in Alaska (including the Kenai Refuge) has ever been closed to this active and ongoing public use. The refuge’s action thus dismisses and calls into question the fact Alaska refuges are “open until closed,” which has created and will only serve to foster significant confusion for both land managers and the regulated public, including users of all Alaska refuges, not just the Kenai Refuge.

There were also a number of issues with the process used during the public comment period. The proposed rule gave no information on any public hearings, although two were scheduled and held, and further implied hearings would only be offered on demand, which contravenes existing regulations regarding the closure process for Alaska refuges.

The Commission submitted comments on the proposed rulemaking in July 2015; no expected date for publication of the final rule has been communicated to the Commission.

Revised National Regulations on Oil and Gas Activities in Refuges – In December 2015, on the heels of the National Park Service rulemaking on the same issue, the U.S. Fish and Wildlife Service issued a proposed rule to amend national regulations governing oil and gas activities within the boundaries of the National Wildlife Refuge System. And, as with the National Park Service's rulemaking effort, the proposed regulations will apply to Alaska despite and in contravention of federal law.

The proposed regulations purport to only apply to areas where the federal government owns the surface and the subsurface is non-federally owned; however, the rule also applies to waters within the external boundaries of the refuge regardless of ownership. The proposed rule also appears to apply to other activities wholly occurring on private, state or Native lands within the refuge, although it is difficult to tell to what extent since the explanation in the preamble is inconsistent with the language of the proposed rule.

The difficulty inherent in discerning the impact on Alaska refuges lies in the proposed rule's focus on refuges outside Alaska. For example, in Alaska, oil and gas activity in refuges is strongly influenced by implementation of the Alaska Native Claims Settlement Act of 1971 (ANCSA) and access provisions under Title XI of ANILCA. The proposed rule and the corresponding Environmental Impact Statement fail to make any reference to ANCSA – it is not even included in the comprehensive list of relevant statutes. In addition, the rule and associated analysis are virtually silent on ANILCA provisions other than those related to inholder access under ANILCA §1110(b), even though there are multiple other provisions with direct application to activities subject to proposed changes.

The Commission submitted comments on the proposed rulemaking in January 2016; no expected date for publication of the final rule has been communicated to the Commission.

Proposed Regulations Regarding Wildlife Harvest and the Public Participation Process for Management of Alaska Refuges – In January 2016, after over a year of intense public anticipation regarding the pending regulatory changes, the Service released a proposed rule to amend regulations regarding the take of fish and wildlife and the management of public use on Alaska refuges. As with the National Park Service's rulemaking, the proposed regulations would preempt state harvest regulations on Alaska refuges pursuant to a discretionary determination; however, unlike the National Park Service's final rule, the preemption would not be automatic and a process is proposed whereby otherwise-preempted state harvest authorizations could be allowed on refuges.

As with the National Park Service's final rule, the U.S. Fish and Wildlife Service also seeks to limit the potential for public participation in the management of federal lands. For example, the proposed rule removes the public notice and hearing requirements for certain public use closures, changes public "hearing" requirements to public "meeting" requirements (meaning a loose format without opportunities for formal testimony) and eliminates the 12-month maximum for temporary closures to the take of fish and wildlife. The proposed rule also severely impacts the State's ability to satisfy its mandate to provide for subsistence harvest. Perhaps of greatest concern, the proposed rule will

codify in regulation a 2001 Service policy regarding “biological integrity, diversity and environmental health,” significantly expanding on vague language from a 1997 statute to trump specific statutory provisions for Alaska refuges in ANILCA – even though the 1997 statute itself specifically stated that ANILCA prevails in Alaska where there are any real or perceived conflicts between the statutes.

Thanks to a concerted (and recently successful) effort to extend the public review period, the Commission will be commenting on the proposed rulemaking in a formal comment letter in April. At its January 2016 meeting in Juneau, the Commission unanimously voted to recommend to the Alaska Attorney General that all legal action be considered and taken to prevent the proposed regulation from going into effect once finalized. Both houses of Congress have legislation in progress to prohibit the Service from finalizing the regulations. The Commission briefing on the proposed rule is attached to this report.

Recommendation: Prepare for potential legal action against the U.S. Fish and Wildlife Service for its final rule on “Non-subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska” to enable judicial review of multiple potential violations of federal law, Congressional intent and the best interest of Alaskans.

U.S. FOREST SERVICE

Tongass National Forest Management Plan Revision – In November 2015, the U.S. Forest Service released its proposed Forest Plan Amendment and draft Environmental Impact Statement for the Tongass National Forest. This will be the first plan in the country completed under the Service’s 2012 Planning Rule. The Commission and many others argued strongly against application of the planning rule to national forest lands in Alaska, particularly due to the national rule’s demonstrated ignorance regarding federal laws specific to Service-managed lands and resources in Alaska.

The most significant change proposed under the new plan is a fundamental transition to “young-growth” management of the forest, which the Service is attempting to effectuate in a way that preserves a viable timber industry in Southeast Alaska. Service staff testified and answered questions on the planning effort at the Commission’s January 2016 meeting in Juneau. The public comment period closed in February 2016; a final plan is expected to be released in June 2016 and approved by mid-December 2016.

Chugach National Forest Management Plan Revision – The U.S. Forest Service is also using the 2012 Planning Rule in its Forest Plan Amendment for the Chugach National Forest. The Forest Supervisor has testified and answered questions on the plan revision at both the Commission’s August 2014 and October 2015 meetings in Anchorage, and the Commission’s Executive Director has attended several planning team meetings as an invited participant.

Multiple changes to existing management are being proposed, but few discernable on-the-ground management challenges have been identified. The planning effort's "Preliminary Need to Change the Forest Plan" assessment identified a number of changed conditions since the existing plan was put into effect in 2002, but most simply focused on the need to have a management plan that complied with new Service policy requirements.

Planning documents have been offered for public review in multiple phases, and public comments on the draft Revised Forest Plan and other documents were accepted through February 2016. No date has been set for the beginning of the next phase of the planning process, which will include the development of a draft Environmental Impact Statement.

BUREAU OF LAND MANAGEMENT

Mini-Summit on the Implementation of Bureau of Land Management Statutes, Regulations, Planning and Policies in Alaska – In June 2015, in lieu of its annual spring/summer "general" body meeting, the Commission held a "single-agency" meeting in Fairbanks focused on multiple issues regarding Bureau planning, management and decision making on public lands in Alaska. In close collaboration with the Bureau's Alaska State Office, a series of panel presentations were organized where members of the public and multiple user groups provided testimony and engaged in question-and-answer sessions with commissioners alongside Bureau staff and leadership.

Topics addressed during the panel discussions and agency presentations included:

- RS 2477s and ANCSA 17(b) Easements
- Navigability Determinations, Quiet Title and Recordable Disclaimers of Interest
- Areas of Critical Environmental Concern
- Landscape-Level Planning and Rapid Ecoregional Assessments
- 17(d)(1) Land Use Withdrawals and the Resource Management Planning Process
- Trapping Cabin Opportunities on Public Lands
- Placer Mining Regulation and Policies

Copies of presentations, handouts and comprehensive meeting minutes from the mini-summit can be downloaded from the Commission's "Meeting Information" website at <http://dnr.alaska.gov/commis/cacfa/MeetingInformation.html>.

Eastern Interior Draft Resource Management Plan Amendment – This plan, which analyzes proposed management actions on approximately 6.7 million acres of Bureau-administered land, was originally released in March 2012. In mid-2012, the agency issued a draft plan supplement that examined mineral leasing in the White Mountains National Recreation Area, as provided by ANILCA §1312, and the comment period was extended until April 2013. The Commission conducted an extensive review of the draft plan and associated environmental documents for the Eastern Interior Planning Area and submitted a number of comments and recommendations for management.

In January 2015, the Bureau released another supplement to the plan to propose one additional and one expanded proposed Area of Critical Environmental Concern in the Fortymile area, totaling roughly 750,000 acres proposed for limited use designation. Both designations would maintain existing, archaic land use withdrawals affecting most potential public uses of the area, including mineral entry. In its March 2015 comments, the Commission noted the significant lack of justification supporting either proposal and questioned the statutory authorization for the Bureau to act on the proposals.

Responses to the Commission's comments and final action on the proposed designations are expected to issue with the final Resource Management Plan, scheduled for fall 2016.

Bering Sea-Western Interior Draft Resource Management Plan – This currently ongoing planning process, which analyzes management actions on approximately 13.4 million acres of Bureau-administered land, began in July 2013. The final plan will replace a 1981 management framework plan, parts of a 1986 resource management plan and make land management decisions for previously unplanned areas.

Throughout the process, the Bureau has been implementing parts of a draft, unofficial landscape-level planning policy called "Planning 2.0." Under this proposed and (until recently) unwritten policy, the actual planning area encompasses over 62 million acres of land, primarily managed by the State of Alaska and other federal agencies. Management actions identified in the plan would only apply to Bureau-managed lands, but the plan itself also takes into account management actions taken, planned or possible on lands managed by other agencies.

Also purportedly pursuant to the new "Planning 2.0," the Bureau has provided multiple public comment periods on individual draft portions of the plan. One of those public review opportunities relating to several proposed documents supporting development of the plan, including a brief outline of the draft plan's "Preliminary Alternatives," ended in April 2015. The Commission provided detailed comments on the released documents and expressed considerable concern regarding both the content of those documents and the implementation of a draft, then-unwritten planning policy that had not been privy to public inspection or comment.

One particularly significant cause for concern shown in the released documents was the proposal to newly designate over 3.7 million acres as Areas of Critical Environmental Concern. Should these proposed designations be part of the final plan, approximately 44% of the Bureau-managed lands in the planning area would be designated as limited use, with special management restrictions on public use and access, as well as frustrating the application of Public Land laws (including mineral entry) and the selection and conveyance of lands to State and Native Corporations as part of their land entitlement. The Commission commented on the compelling lack of justification for these proposals and the likelihood this approach violates, or at least inappropriately implements, multiple provisions of federal law, including ANILCA, ANCSA, the Alaska Statehood Act and even the statute that initially authorized such land use designation decisions.

In August 2015, the Bureau released a “Preliminary Alternatives Comment Summary Report” which listed the various comments received on the select planning documents put forward for review. No responses to those comments were or have been provided. The Bureau identified the next phase of the planning process as refining the alternatives and preparing the draft Resource Management Plan, with a public review period in 2017.

Central Yukon Draft Resource Management Plan – This currently ongoing planning process, which analyzes management actions on approximately 13.4 million acres of Bureau-administered land, began in July 2013. The final plan will replace parts of a 1981 management framework plan, a 1981 resource management plan, a 1991 resource management plan and make land management decisions for previously unplanned areas.

No documents have been released for public comment as part of this planning process, also being conducted under the draft “Planning 2.0” policy. General scoping comments regarding the planning area and existing plans were accepted from June 2013 through January 2014, and Area of Critical Environmental Concern nominations, modifications and comments were taken from May through August 2014. The scoping summary report issued in March 2014 and the Area of Critical Environmental Concern summary report issued in December 2015; neither accompany a public comment period or provide much substance on which to provide meaningful comments to influence the process.

The Commission will continue to actively monitor all three of the ongoing resource management planning processes, including providing substantive comments, educating the public and participating in issue resolution with agency staff and leadership. In addition, the Commission will continue to monitor, educate and engage on any related issues with Bureau management in Alaska brought to light during the planning process.

Comprehensive Trapping Cabin Policy for Alaska – In 2012, the Commission successfully worked with the Bureau to modify its national policy regarding cabin use on Bureau-managed lands to specifically allow for winter cabin use for trapping in Alaska. National policy provided that cabin use must be for commercial or subsistence uses; no “recreational” cabins can be authorized by the Bureau. Some provisions also existed for emergency public health and safety shelters. Trapping cabins, however, uniquely defied each of these categories and the Bureau was unwilling to issue cabin authorizations and land leases to trappers in Alaska. Through efforts by the Bureau’s Alaska State Office, the Commission and the trapping community, the 2012 revised cabin policy allowed for authorizations to be issued to trappers where certain requirements were met.

On helping trappers with their applications to construct and use cabins on Bureau-managed lands in Alaska, it became apparent that implementation of this Alaska-specific policy did not provide a meaningful or realistic opportunity for Alaskan trappers. This concern became further compounded by numerous other Bureau policy changes, including increased rental fees and internal requirements to both require applicants to pay the full cost of permitting and to provide a full reclamation bond prior to receiving an authorization. In helping one trapper with his application, the proposed up-front cost to

have his request reviewed was over \$5000, not to include the bond he would be required to post, the associated fees and annual rentals, or the cost of constructing the cabin itself.

In spring 2015, the Commission worked with local Bureau staff and the Alaska Trappers Association to develop guidance for trappers trying to understand the application process, including the various applicable regulations and policies, and to identify possible expenses associated with securing the authority to construct a cabin. In November 2015, the Commission sent a letter to the Bureau's Alaska State Director, summarizing its concerns and requesting the development of a comprehensive cabin policy for Alaska that addresses the real and substantial impediments to authorizing trapping cabins on Bureau-managed lands and provides a remedy, to be developed with significant public involvement. To date, no response to the Commission's request has been received.

U.S. SENATE COMMITTEE HEARINGS

Senate Committee on Environment and Public Works, April 2015 Hearings on Proposed Regulations Implementing the Clean Water Act – The Executive Director of the Commission provided direct witness testimony at one of the two in-state hearings on the Environmental Protection Agency's proposed "Waters of the United States" rulemaking. Testimony focused on the Commission's November 2014 comments on the proposed rulemaking and its unique "big picture" expertise on how the rule collides with the already exceedingly complex implementation of federal laws and policies in Alaska.

Senate Committee on Energy and Natural Resources, December 2015 Hearing on 35 Years of ANILCA Implementation in Alaska – Senator John Coughill provided direct witness testimony on behalf of the Commission at a hearing in Washington D.C. coinciding with the 35th anniversary of the signing of ANILCA. The hearing sought to explore how subsequent implementation of the law has tracked Congressional intent and whether it has, on balance, benefitted or been detrimental to Alaskan interests. By personal invitation, the Executive Director of the Commission also attended the hearing as an audience member and spent several days at the U.S. Capitol addressing informal questions, providing historical documents and context and briefing Committee and other staff on past, present and pending ANILCA issues impacting Alaskans and their interests.

Commission testimony, including responses to supplemental Committee questions, can be downloaded at http://dnr.alaska.gov/commis/cacfa/correspondence_15.htm.

STATEWIDE INITIATIVES

Land Use Withdrawals – The Commission advised multiple committees in deliberating and ultimately passing House Joint Resolution 24 during the 2015 legislative session. The Commission's Executive Director provided hearing testimony (by phone) and the Commission served as a point of contact for staff inquiries and submitted historical and recent documentation to authenticate facts and recommendations in the resolution.

Recommendation: Follow-up on recommendations made in HJR 24 (2015) to encourage the Department of the Interior to lift ANCSA 17(d)(1) withdrawals consistent with approved Resource Management Plans so the public lands are available under Public Land laws, including for state selection and mineral entry.

Outreach Subcommittee – Established in June 2014, the Commission's four-member Outreach Subcommittee continues to actively pursue creative and galvanizing strategies to engage and inform Alaskans and to document Alaskan experiences. Their efforts in 2015 include: capturing and archiving video of Alaskan stories; organizing a special public presentation in Fairbanks by a constitutional lawyer researching the transfer of public lands issue; planning multiple public meetings in underserved Alaska communities on the road system; procuring and presenting a diverse and economical Media Advisory Plan to the Commission, along with overseeing and maximizing its responsible implementation; and, developing extensive public outreach and educational materials.

Digitization of Commission Archives – In spring 2015, the Commission secured a contractor to scan its paper files and archives spanning the entire operation of the Commission and to create a searchable digital database documenting over 25 years of Alaskan experiences with federal land management and ANILCA implementation. In December 2015, the contractor finalized the database and the Commission is currently pursuing making it available for access and research by agencies and the public.

ALASKA STATE LANDS ADVISORY GROUP

At its January 2015 work session, the Commission passed a resolution under its statutory authority at AS 41.37.230 to establish the Alaska State Lands Advisory Group (ASLAG). Among other things, ASLAG has been tasked with understanding, discussing and advising on the viability of and potential for transferring ownership and/or management of federal public lands in Alaska to the State of Alaska. The group is strictly advisory to the Commission and will not make decisions or set policy for the State of Alaska.

Nominations and applications for appointment to ASLAG were invited via public notice, announcement at the Commission's January 2015 meeting in Juneau, web posting and newspaper posting (Alaska Dispatch News, Fairbanks Daily News-Miner, Juneau Empire and the Alaska Journal of Commerce) and were accepted from January 16 through February 14, 2015. The following ten individuals were offered appointments from the 24 nominations and applications received by the Commission:

- John Crowther, Anchorage
- Hugh "Bud" Fate, Fairbanks
- Craig Fleener, Anchorage
- Ray Kreig, Anchorage (initially selected as an alternate and non-voting member; assumed full membership in October 2015 on the resignation of Dick Randolph)
- Stan Leaphart, Fairbanks (appointed Vice-Chair by unanimous vote in June 2015)
- Scott Ogan, Palmer

- Dick Randolph, Fairbanks (resigned membership in October 2015)
- Bill Satterberg, Fairbanks
- JP Tangen, Anchorage
- Mead Treadwell, Anchorage (appointed Chair by unanimous vote in June 2015)

To date, ASLAG has held seven public meetings to strategize the approach to achieve its mission, develop working groups on four focal areas (Legislation, Litigation, Negotiation and Confrontation) and discuss and complete research tasks to culminate in a final report with recommendations to the Commission, currently scheduled for a public review and comment period in November 2016 and final submission in December 2016. ASLAG members have provided updates to the Commission at each of its public meetings since the group's inception, including delivering one written midterm report in October 2015.

At its January 2016 meeting in Juneau, the membership unanimously voted to submit to the Commission a draft resolution supporting the State of Utah in considering initiating litigation against the federal government following recommendations in a detailed legal analysis requested by the Utah State Legislature. On considering the recommendation from ASLAG, the Commission voted to forward an amended version of the draft resolution through its sitting legislators for consideration by the Alaska State Legislature and to make the following recommendation:

Recommendation: The Alaska State Legislature should consider passing a joint resolution supporting the State of Utah in pursuing litigation against the federal government to facilitate a constitutional transfer of lands and authorities from the federal government to the many states.

More information and relevant materials can be found on the ASLAG page attached to the Commission's website at <http://dnr.alaska.gov/commis/cacfa/alaskastatelands.htm>. The advisory group's charter is attached to this report.

CONCLUSION

During 2016, the Commission will continue to work closely with federal and state agencies, state legislators, the Congressional delegation, user groups and the public to resolve the issues identified in this report and work toward meaningful regulatory and policy regimes which incorporate and accommodate Alaskan expertise. While we find that we frequently disagree on management approaches and authorities, the Commission has a solid and respectful working relationship and good communication with federal agency staff and leadership working here in Alaska. Maintaining this relationship is important to us and critical to successful conflict resolution to our mutual advantage.

With the continued support of the Governor's Office and the Alaska State Legislature, the Commission is confident it can make a valuable contribution in safeguarding the social, cultural, traditional and economic interests of the State of Alaska and its citizens.

Citizens' Advisory Commission on Federal Areas
Mark Fish, Chairman
Sara Taylor, Executive Director

Attachment 1: Commission Briefing on the Draft National Park Service Rulemaking on Wildlife Harvest and Public Participation Process for Alaska Preserves

Attachment 2: Commission Briefing on the Final National Park Service Rulemaking on Wildlife Harvest and Public Participation Process for Alaska Preserves

Attachment 3: Commission Briefing on the Draft U.S. Fish and Wildlife Service Rulemaking on Wildlife Harvest and Public Participation Process for Alaska Refuges

Attachment 4: Charter for the Alaska State Lands Advisory Group

CONSERVATION SYSTEM UNITS AND 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-St. 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 WWII 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

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

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 National Monument & Preserve	63.0
Charley	Yukon-Charley Rivers National 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 National Park & Preserve	110.0
Mulchatna	Lake Clark National Park & Preserve	24.0
Noatak	Gates of the Arctic National 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