

# STATE OF ALASKA

**SEAN PARNELL, Governor**

## **ANILCA IMPLEMENTATION PROGRAM Office of Project Management and Permitting**

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October 27, 2009

Geoff Haskett  
Regional Director  
US Fish and Wildlife Service  
1011 East Tudor Road  
Anchorage, AK 99503-6199

Dear Mr. Haskett:

The State of Alaska reviewed the final Revised Comprehensive Conservation Plan and accompanying Final Environmental Impact Statement for the Kenai National Wildlife Refuge. Our respective agencies face more challenges and competing user demands on the Kenai Refuge than most refuges in Alaska. While the State and the Refuge do not always agree on the management intent for the next 15-20 years, we acknowledge many issues have been addressed in ways that are mutually satisfactory.

Among the remaining issues, we request reconsideration of the CCP's direction regarding airplane access to lakes in designated Wilderness. At a minimum, we request the Kenai CCP Record of Decision include a commitment to revisit airplane access closures and restrictions when the Refuge regulations are updated. We are not advocating for a wholesale withdrawal of the 1986 airplane access restrictions. We understand the Refuge originally limited airplane landings primarily to protect and enhance trumpeter swan nesting and brooding. The State supported the objective of rebuilding the trumpeter swan population. However, since initial implementation, the self-expanding regulation now unnecessarily limits public access, especially at the end of the rearing season. As the presence of both nesting and non-nesting swans expands, the limited opportunity for aircraft access correspondingly continues to decline without further justification.

### **Background**

In 1986, following completion of the original CCP, the Service promulgated a Refuge-specific regulation package at 50 CFR 36.39(a)(i) affecting various access modes and public uses on the Kenai Refuge. Most lakes in designated wilderness areas were closed to airplane landings, except for 46 named lakes where landings could occur. At the same time, the regulations created an additional refuge-wide seasonal closure between May 1 and September 30 when "nesting trumpeter swans and/or their broods are present." The seasonal closure applies to the 46 lakes that are otherwise open if no swans are present. The impact of this layered seasonal closure on air access increased dramatically with the corresponding increase in the swan population on the Kenai Peninsula.

During scoping for the draft CCP, the State and others advocated for revisiting these regulations. The Refuge Manager responded by adding an alternative allowing airplane access on 13 additional lakes in designated Wilderness and 1 additional lake outside designated Wilderness. At the time, he determined this was a “reasonable” alternative, although not his preferred alternative. In the meantime, the swan population continued to grow and expand. The Refuge population objective of 40 pairs was exceeded in the early 1990s and was up to 141 pairs during the last count in 2005.

In response to comments on the draft CCP, the final Revised CCP retains the original lake closures but offers consideration of a limited special use permit for successful applicants in the State’s limited drawing hunt program. While we appreciate this overture, its practical application is very limited and potentially problematic.

## **Issues**

Swans. Most of the lakes in the Kenai Refuge Wilderness Area are already closed. Under the seasonal closure, the burgeoning trumpeter swan population has led to the effective closure of more lakes. Law-abiding pilots have difficulty determining the presence of nesting or brooding swans from the air or distinguishing between trumpeter and tundra swans. Consequently, if they see any large white bird they tend to avoid landing. The associated and continued uncertainty about the status of any given lake during the nesting/brooding period deters pilots from landing on Kenai Refuge lakes at all.

Wilderness values. We recognize that, over time, protection of wilderness values is an increasingly important issue to the Refuge; however, limiting lake openings still leaves the vast majority of lakes closed to airplanes. Very few lakes in the Refuge are readily accessible by road, so strong protection of wilderness values will remain in effect, even if some additional lakes are made accessible or the seasonal closure dates are adjusted. The Kenai Refuge is the only refuge in Alaska with an explicit recreation purpose. Thus allowing slightly more aircraft access is consistent with the purposes of the Refuge and the Refuge Improvement Act to provide opportunities for all fish and wildlife-oriented recreation, without compromising conservation objectives. Furthermore, opening a few additional Wilderness lakes to airplane access can actually enhance opportunities for primitive recreation, because much of the Refuge is very difficult to reach.

Permit system. Disadvantages of the newly-proposed option to consider a limited special use permit include:

- few state-managed hunts on the Refuge are drawing hunts;
- other recreational users will not be able to benefit;
- a permit system involves a substantial public and administrative burden; and
- a permit system offers few enforcement advantages.

We also understand there were few comments from pilots seeking opportunities to land at specific lakes or offering support for Alternative D. Refuge management perhaps understandably interpret this lack of response from pilots as a lack of interest in additional Refuge landing opportunities. Our anecdotal contacts with pilots over the last few years indicate another way to interpret the lack of comment: Since the CCP did not propose to revisit the

seasonal closure, commenting in favor of Alternative D (additional lake openings) is practically a moot exercise because the increasing presence of swans prevents airplane landings even if they are otherwise open.

## **Alternatives**

To address these issues, we request consideration of one or more of the following options in the Record of Decision.

- 1) Adopt Alternative D (the portion that addresses airplane access) that identifies 14 additional lakes for airplane access, subject to the seasonal closure. We understand this alternative was crafted by the Refuge to identify specific lakes with low historical use by swans and high value for recreation, including but not limited to hunting.
- 2) Direct the Refuge to work with the State to evaluate specific lakes that if opened, would provide access for outdoor recreational activities using the following criteria:
  - Isolated from the canoe system and the road system;
  - Provide increased access for the “big six” uses, with recognition that the most likely access use would be for hunting and fishing;
  - Avoid high use nesting lakes; and
  - Continue monitoring trumpeter swans to ensure maintenance of the population.
- 3) Modify the seasonal closure to coincide with the Board of Game’s Kenai Controlled Use Area in GMU 15A. Since 1982, the Board of Game has prohibited use of aircraft in support of moose hunting until after September 10.
- 4) Commit to revisiting airplane access closures and seasonal restrictions, including the options and issues raised in this letter, when the Refuge regulations are updated as soon as practicable following completion of the CCP.

To summarize, the State supports the following goals with respect to airplane access:

- Continued conservation of the trumpeter swan population.
- Increased opportunities for primitive recreation.
- Reasonable opportunities for airplane access on the refuge.
- Recreational opportunities available to hunters and non-hunters alike.
- Minimum administrative burden on managers and the public.

We understand the Refuge shares all of these goals to varying degrees, and, if given the opportunity to engage in a meaningful dialogue, we believe we can mutually craft a viable solution that serves the needs of most, if not all, Refuge stakeholders. Thank you for your consideration of these comments. Please contact me if you have questions or wish to further discuss resolution of this issue.

Sincerely,



Sally Gibert  
State ANILA Program Coordinator