



Northern Alaska Environmental Center

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Tom Irwin
Commissioner
Department of Natural Resources
550 West 7th Ave, Suite 1400
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RE: Reconsideration of proposed revisions to the Northwest Area Plan, Public Review Draft, April 2008

Dear Commissioner Irwin,

On October 31, 2008 you adopted the Northwest Area Plan (NWAP). As stated in the notice of that adoption a person affected by this decision may request reconsideration, in accordance with 11 AAC 02. On June 9, 2008 the Northern Alaska Environmental Center (NAEC) submitted comments concerning the Northwest Area Plan, Public Review Draft, on behalf of Rosemary Ahtuanguaruk, Alaska Wilderness League, Pacific Environment, Native Village of Point Hope, Alaska Intertribal Council, National Resources Defense Council, Sierra Club Alaska Chapter, Center for Water Advocacy, and the Alaska Community Action on Toxics. By this letter NAEC requests reconsideration of the following comments and revisions to the Northwest Area Plan, Public Review Draft, April 2008.

General Review Request:

Several revisions to resource allocation tables listed in the NWAP-Approved Revisions are followed by the following statement “Include appropriate management guidelines.” As stated on (page 2-2 lines 13-17) “Management intent for state land is expressed through statements of management emphasis identified on a unit specific basis. These statements are **based on** resource and use inventories, the review of existing and potential economic trends, state authorizations, existing plans and similar resource management documents, agency review and comment, and **public participation**.” (emphasis added). We believe that effective public participation in developing management intent for state land requires that the public have the opportunity to review the actual written content of a document and the changes to that document. The NWAP also states as a public notice goal on (page 2-4, line 11-13) “Public Participation. **Provide** local governments, state and federal agencies, adjacent landowners, and the general public with **meaningful opportunities to participate in the process** of making significant land use decisions.” (emphasis added). Since a final draft of the NWAP will not be released until *after* the appeal period is over, public review and comment on the management intent for resources and uses in specific units is *impossible*, and in no way can this be considered a “meaningful opportunity to participate.” It is also very difficult to understand and follow the changes to the NWAP when one’s only option is to reference and correlate the information provided in three individual documents—the NWAP Public Review Draft, the Issue Response Summary, and the Approved Revisions). We request that a final draft of the Northwest Area Plan, which includes the proposed management intent statements for all tideland and upland resources allocation tables, be issued for public review with a new appeal period.

Specific Review Requests:

1. Various animal populations and habitats have been omitted from the resource allocation table for Tideland Unit LT-04. Please add the following animal populations and habitats in the resources and uses section and the appropriate management intent to the table:

i. All King eiders (approximately 500,000 birds) that breed in Western North America use Ledyard Bay adjacent to Tidal Unit (LT-04) as a spring (May) staging area. In the fall (Sept) a significant portion of the population uses the area for staging or molting. This is necessary because Fish and Wildlife Management Guideline P, Activities in Important Waterfowl Habitat states: “In important waterfowl habitat, activities requiring a lease, permit, or development plan, and producing habitat disturbance or high levels of acoustical or visual disturbance from sources such as boat or vehicle traffic, vegetation clearing, construction, blasting, dredging, and seismic operations, will be avoided during sensitive periods such as nesting, **staging**, or brood-rearing periods.” (emphasis added)

ii. The southern portion of this area is a migratory near shore pinch point for beluga and other whale species migration. Therefore, impacts to migration are more significant in this region for the survival of the impacted species (i.e., beluga whales).

iii. As pinniped haulout use increases in the region the benthic zone in the tidal unit will continue to increase in importance as a feeding area to these species and therefore the benthic zone is critical to the survival of pinniped species. Thus, the benthic zone in the tidal unit must be protected.

iv. Boulder patches in the tidal lands are a habitat feature of special significance for the area. These patches provide habitat for invertebrate and vertebrate species that support pinniped, whale, and fish populations and therefore are critical to the survival of these higher order mammal and fish populations. As stated on page 2-7, lines 37-41, it is a goal of DNR to “Maintain and Protect Publicly Owned Habitat Base. Protect and maintain in public ownership and **protect habitat** for fish and wildlife resource protection to **supply sufficient populations or a diversity of species** to support commercial, recreational, or traditional uses on an optimum sustained yield basis; and protect unique or rare assemblages of a single or multiple species of regional, state, or national significance.” (emphasis added). Thus, boulder patches in tidal lands must be protected.

v. Please add the following management intent language. Manage unit to maintain and enhance the natural environment; DNR adjudicators in their management of habitat on state lands, shall manage to maintain and enhance the biological, chemical, and physical processes that support living natural resources. This management intent language provides the appropriate guidance by clarifying the features of the natural environment which should be considered. Ultimately, this management intent language provides the needed clarity and predictability in achieving the Goal of Manage[ing] to Maintain and Enhance the Natural Environment. Therefore, we further recommend that this language be included as management intent language in all resource allocation tables that contain living natural resources and important habitats.

2. Please add the following animal populations and habitats in the resources and uses section and the appropriate management intent to the resource allocation table for Tideland Unit LT-02:

i. The northern portion of this area is a migratory nearshore pinch point for beluga and other whale species migration. Therefore, impacts to migration are more significant in this region for the survival of the impacted species (i.e., beluga whales).

3. Please add the following animal populations and habitats in the resources and uses section and the appropriate management intent to the resource allocation table for Upland Units L-01, L-02, and L-05:

i. Since the boundary between tidelands and uplands is the mean high water line as demonstrated in Fig 1-1, page 1-2 of the NWAP, it is appropriate to add to the resource description for these units the following: USFWS reports that, presumably because of the loss of ice in the region, walrus have begun hauling out in numerous places along the coast between Icy Cape and Cape Lisburne. The management intent also should be changed to reflect this. In addition, explain the need to consult with ADFG and federal agencies on marine mammal haulout locations and walrus use areas.

4. Upland unit K-03 is heavily used by the WACH, like the adjacent Upland unit K-04, and should be classified as Ha or at the very least Ha/Mi. I have personally flown over the region in a helicopter and witnessed hundreds of caribou and countless caribou trails. Moose also live and depend on the habitats in this region and should be included in the resource allocation table. These wildlife resources are critical for subsistence in the region.
5. Mitigation Guideline A, on (page 2-8, line 12-13) states, “The costs of mitigation relative to the benefits to be gained will be considered in the implementation of this policy.” Correlating the financial cost of mitigating adverse affects to fish, wildlife, and their habitats to the value of preserving “Life” without designating specific thresholds and criteria for evaluation is traditionally industry biased determination that results in the inappropriate degradation of habitat and wildlife resources. Please provide the specific criteria for making these cost benefit assessments for the mitigation of adverse effects to the natural environment and its ability to support “Life”.
6. Trustees for Alaska requested that DNR remove the word “preferably” from the phrase “preferably, avoid or minimize impacts” in the management intent language for the resource allocation tables for upland units L-03 and L-04. Avoiding or minimizing impacts of coal mining in sensitive habitats should not be optional. This comment was not addressed in the NWAP Issue Response Summary or in the Approved Revisions. It is stated on page 3-5 lines 32-37 of the NWAP that “When a co-designation of Minerals/Habitat or Coal/Habitat is applied, this implies that mining is or may be an appropriate use within a unit with this co-designation, but the habitat values within the unit must be taken into careful consideration when an authorization is under consideration. Stipulations shall be imposed in the authorization in order to ensure the continuation of the habitat value or resource within the unit.” Therefore, avoiding or minimizing impacts cannot be optional by including the word preferably in the statement of management intent for units L-03 and L-04.
7. Several commenters requested that “significant adverse impact”, “degradation of the resource”, and “consideration” be defined in the NWAP. These phrases are not self-evident and need definition. Very different conclusions can be made depending on the scope and perspective of stakeholders and adjudicators when interpreting the intent of language and evaluating impacts to and degradation of living natural resources. In an effort to achieve balance in the assessment of development and environmental concerns these definitions are critical to achieving the sustained yield and multiple use objectives of the NWAP while preserving, in Public Trust, the natural environment of Alaska for future generations.
8. The issue of Climate Change must be addressed in the NWAP. We request that the plan include a process that will allow DNR to respond to the impacts of climate change that may occur during the plan’s duration. Until more prescriptive language can be included in plan Management Intent in resource allocation tables should at the very least require “consideration” of Climate Change issues in project proposals and in the determination of cumulative impacts to the natural environment. In addition when the sub-cabinet group of state commissioners has completed the state climate change policy, a process, which includes meaningful public participation, should be initiated for the inclusion of language (i.e. Goals, Management Guidelines and management intent statements) into all Area Plans so that Climate Change is adequately addressed.
9. We request the language added to the Material Sites Management Guideline A. Preferred Material Sites (page 2-25, line19) be removed. Inserted after ‘permitted in fish spawning areas’ was the following: ‘unless it can be

shown that the activity will not adversely affect spawning.” The Alaska Department of Fish and Game has never permitted a material site in a depositional spawning area (i.e. anadromous spawning area), and the success of depositional spawners has been documented as poor in other jurisdictions where material sites have been allowed. However, broadcast spawners (i.e. grayling) have demonstrated success with the appropriate mitigation when material sites have been allowed. In light of this information, we request that it should remain a general policy that sales or permits for gravel extraction will not be permitted in known fish spawning areas.

Thank you for this opportunity to request reconsideration to the comments and revisions outlined above for the Northwest Area Plan, Public Review Draft, April 2008. If you have any questions, or wish to discuss any of the requests in this letter please feel free to contact me at (907)452-5021 or email zak@northern.org.

Sincerely



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