ALASKA LANDS BRIEFING BOOK
FOR SECRETARY BRUCE BABBITT

Submitted by

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July 1993
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ARCTIC NATIONAL WILDLIFE REFUGE COASTAL PLAIN WILDERNESS

Recommended Action

Rescind the Interior Secretary's April, 1987 recommendation to Congress that the 1002 area of the Arctic NWR coastal plain be opened to oil and gas leasing and development. Recommend that Congress designate the 1.5 million acre Arctic coastal plain "1002" area as wilderness.

Background

This could be the most significant legacy of the Clinton administration's commitment to protecting the natural values of public lands and embarking on a new energy path that reduces global climate changes. Despite the challenge of getting wilderness designation through Congress, this assertion of the national values of Alaska's conservation areas would send a lasting message to Alaskans and ultimately reduce polarization over environmental issues.

The attempts of the oil and gas industry to develop this vital wildlife area were blocked by the U.S. Senate on 11/1/91 when a cloture vote failed to bring the National Energy Strategy bill which included Arctic National Wildlife Refuge oil drilling in it to the Senate floor. The energy bill passed by the 102nd Congress emphasized conservation, efficiency, and renewables. The Arctic National Wildlife Refuge Wilderness bills, S. 39 and H.R. 39, have been reintroduced in the 103rd Congress and enjoy a broad base of support.

The Arctic National Wildlife Refuge wilderness and wildlife are unparalleled in North America. It is an area so pristine that it is without question the standard against which all other wilderness areas should be measured.

The Arctic Refuge ecosystem has international significance because of its habitat diversity and its undisturbed nature. The second purpose of the Arctic Refuge in ANILCA is to fulfill U.S. international treaty obligations with respect to fish and wildlife and their habitats. Scientists have raised concerns that the impacts of oil exploration and development could impair our ability to uphold U.S. obligations under international treaties and agreements concerning polar bear, snow geese, the Porcupine caribou herd, and bowhead whales.

The Final Legislative Environmental Impact Statement (FLEIS) by the Department of the Interior for the 1002 area projected major impacts from oil and gas exploration and development to caribou, muskox, water quality and quantity, subsistence, and wilderness. Development would cause habitat losses and wildlife conflicts throughout the area. Despite this, the Secretary recommended development to Congress in April, 1987.
ANILCA MANAGEMENT PLAN REVIEWS NEEDED

Recommended Action

Assign a working task force in USDI to analyze existing implementation of ANILCA through the Comprehensive Conservation Plans (CCP's) for refuges, General Management Plans (GMP's) for parks, and issuance of public use permits, and set a new policy direction that is more consistent with the conservation purposes established by ANILCA and the new Administration.

Background

The goal should be to leave a legacy of protected parks and refuges by turning around the current management of ANILCA lands over the next four years.

How can the pro-development plans and management established during the last twelve years be modified in the next four years to live up to the intent of ANILCA?

National Park General Management Plans (GMP's) had only EA's, not EIS's; a full NEPA review process should be prioritized for those parks in which GMP's included incompatible uses such as too much commercial development (eg - Denali, Glacier Bay, Katmai, and Wrangell-St. Elias). This would ultimately require a new EIS for each park, and Supplemental EIS's for some refuges and conservation units. System-wide Supplemental EIS's might be issued or at the least requirements for full EIS's for step-down planning in Development Concept Plans (DCP's) in the parks and Public Use Management Plans (PUMP's) in the refuges so that changes could be instituted within four years. Conduct analysis of Public Use Permits granted for refuges, parks, etc. and determine whether compatibility determinations have been adequate, both individually and cumulatively.
NEW ANILCA REGULATIONS NEEDED

Recommended Action

Replace interim regulations (1981) with tough new regulations.

Background

Interim Management Regulations for the Alaska National Wildlife Refuges, 50 CFR Sect. 36 (June 17, 1981; 46 FR 31818) are still in effect and should be replaced. New ones should better define management practices and compatible uses so that following administrations have less leeway to allow incompatible development and management. Also, review 36 CFR for the parks.

When the Reagan administration took over on January 20, 1981, it inherited draft interim regulations published on January 19 by the departing Carter administration. These interim regulations were proposed as a stop-gap for 1981, as a means of alerting the public to various changes brought about by the passage of ANILCA the previous December, e.g., several new national parks had been created in which sport hunting and the use of ATV’s were now prohibited. Comprehensive regulations were to follow.

But the Reagan-Watt administration simply weakened the draft interim regulations, published them in June as final "interim" regulations, and then refused to begin rulemaking for comprehensive regulations.

The final interim regulations still on the books need to be reviewed in the light of the legislative history of the Act, and appropriate changes made. Some examples of omissions and abuses:

--There is no provision for federal regulation of activities on state, Native, and private lands within conservation system units. Sec. 103 (c) was misinterpreted as the basis for this omission;

--Vast areas and waters in pre-ANILCA Katmai, Glacier Bay, and Mt. McKinley (now Denali) were opened to unrestricted airplane, snowmachine, motorboat, and jetboat use. These areas were closed prior to the Act. A technical error in the definitions section of ANILCA allowed the administration to degrade these crown jewels; there is no evidence in the legislative history that Congress intended to weaken existing protection for these three parks;

--Similarly, the pre-Act refuges were opened to motorized access in areas previously closed;
--Title 11, which governs potential access across and within conservation system units, was left for later treatment that ultimately resulted in litigation that is still pending;

--Occupancy trespass (squatter cabins/structures) was also separated out for later regulations and policy that has also led to litigation;

--Title 8, subsistence management and use, was omitted entirely. Only the National Park Service subsequently published subsistence regulations, and these need updating;

--Analyze permitted activities in designated wilderness (such as helicopter-supported surface geology studies, a.k.a. petroleum exploration; fisheries management, etc.) to determine acceptability under ANILCA and the Wilderness Act and determine precedents that activities allowed in these areas since 1980 may have on future wilderness management;

--Conduct a thorough legal and policy analysis of Section 22(g), applicable to native uses of native lands within refuges in existence at passage of ANCSA that states "such lands remain subject to the laws and regulations governing use and development of such refuge," and establish regulations (or other measures if more appropriate and defendable at this time) to optimize maintenance of fish and wildlife values;

These and other inconsistencies can be corrected through new rulemaking that accurately reflects the intent of Congress.
EXXON VALDEZ OIL SPILL SETTLEMENT PROCESS

Recommended Action

(1) We urge you to seek White House direction to create an Exxon Valdez task force made up of the three Federal agencies represented on the Trustees Council, but under your direction to oversee all federal Trustee activities including habitat acquisition by all federal agencies;

(2) Appoint an Interior Department Trustee Representative who will aggressively pursue habitat acquisition and prevail upon the Secretaries of Agriculture and Commerce to do likewise; and,

(3) Develop a habitat acquisition strategy that will protect the maximum amount of threatened and priority habitat by pursuing habitat acquisition comprehensively on a land owner by land owner basis.

Background

We applaud the leadership that you and the Department of Interior have taken to work with the Alaska Attorney General to negotiate the purchase of Seal Bay and the negotiations that your Department has undertaken with several Native corporations who own in-holdings in conservation system units. Unfortunately, the Forest Service has not demonstrated similar commitment. They have not vigorously and comprehensively pursued negotiations to restore lands to the Chugach National Forest nor have they supported the Clinton Administration’s policy for habitat acquisition on the Trustees Council. Consequently, we recommend that the Interior Department be made the lead agency and that a task force of policy and land acquisition people from all three departments be created and put under your direction.

It is critical that the three Federal Trustee Representatives fully support the Clinton Administration’s policy on the Trustees Council. Presently, the Administration is represented by bureaucrats put in place by the former Administration who are not fully in concert with an aggressive habitat acquisition effort. In fact, Mr. Barton, Regional Forester, has openly at Trustee Council meetings opposed the Clinton Administration’s positions. This must not be allowed to continue!

In order to protect the maximum amount of sensitive habitat with finite funds from the Exxon Valdez settlement, it is essential to develop a strategy of how to acquire the maximum amount of important habitats as expeditiously as possible. We strongly recommend that the task force identify for each private land owner in the spill impacted area all the lands held by that land owner that have important habitat values justifying
acquisition and then proceed to negotiate a single deal with each land owner for all their lands possessing important habitat values. We feel it is essential to be entirely fair to Native owners regarding price and to honor their desire in places to sell only easements. But we also feel strongly that the public interest will be much better served by negotiating for whole watersheds and on a comprehensive ownership basis rather than on a parcel by parcel basis. The public interest could be substantially degraded if parcels adjacent to those acquired remaining in private ownership are latter clearcut.

Comprehensive deals should be negotiated with Native owners even if sufficient Exxon Valdez funds are not immediately available by purchasing the lands over a period of years with the necessary options protecting the lands from logging in the interim. At the Federal level we urge you to seriously consider going even further by making deals that may go beyond the resources of the Exxon Valdez settlement, thereby challenging us to find additional funds. These funds or assets could come from the Land and Water Conservation Fund, excess federal properties that could be traded or Resolution Trust Corporation and Federal Deposit Insurance Corporation real estate assets that also could be traded allowing full performance on the options of some deals as they expire.
NAVIGABILITY AND SUBMERGED LANDS

Recommended Action

To protect the integrity of Conservation System Units, the Interior Department must assert vigorously federal interests against the State of Alaska’s aggressive and overly broad view of navigability. Bring a test case designed to severely limit the scope of the Gulkana River decision (CCState of Alaska v. Ahtna, Inc.DD, 891 F. 2d 1401 (9th Cir. 1989)). Reconsider Secretary Lujan’s December 2, 1992 settlement offer to the State. Promulgate regulations ensuring that activities on navigable waters and their beds, including mining, transportation access, and fish and wildlife management, are compatible with the purposes of national conservation system units. Request State to close navigable streambeds within federal conservation system units to mineral entry.

Background

The State of Alaska is aggressively and recklessly asserting an overly broad definition of navigability, literally claiming that any blue line on a map marked "river" is navigable. In 1992, the State unilaterally asserted that Moose Creek within Denali National Park was navigable and actively encouraged riverbed mining operations. Only a storm of controversy forced the Governor to retreat from the mine Denali program. On August 27, 1992, the Alaska Attorney General notified Secretary Lujan of his intent to file quiet title actions to the submerged land of more than 200 rivers and lakes. On December 2, Secretary Lujan offered to negotiate agreements with the State.

American Rivers’ analysis of the State’s August 27 letter identified numerous federal resources threatened by the State’s proposed action, including:

* 12 of the 25 National Wild and Scenic Rivers in Alaska;
* 26 rivers and lakes in 9 National Park System Units;
* 74 rivers and lakes in 14 National Wildlife Refuges;
* 20 rivers and lakes in National Wilderness areas;
* 3 rivers in BLM conservation system units and the NPRA.

If the State is successful, title to tens of thousands of miles of riverbed throughout federal conservation system units will become ribbons of State owned land.

The Department should assert vigorously the national interest in preserving title to submerged lands and require the State to establish conclusively that a specific stream, especially within Conservation System Units, meets the legal test for navigability. The Department should identify an appropriate test case to limit the broad, recreational test of navigability for federal title established in the Gulkana River case.

The Department should exercise the full range of federal powers necessary to protect federal areas from incompatible state-sanctioned actions on navigable riverbeds, including promulgating regulations exercising such federal powers.
WILDERNESS REVIEWS ON NATIONAL PARKS AND WILDLIFE REFUGES

Recommended Action

Redo the mandated ANILCA Section 1317 wilderness review recommendations for Alaska refuges and parks, and make wilderness recommendations to Congress within three years. Issue directive to the National Park Service and the U.S. Fish & Wildlife Service imposing interim protection for these non-wilderness lands until Congress can act.

Background

Sec. 1317 of ANILCA directed the Secretary, USDI, to review all non wilderness lands on the national wildlife refuges and national parks in Alaska for wilderness potential by 1985 and, further, directed the President to submit his wilderness recommendations to Congress by 1987. This statute affects almost 78 million acres of park and refuge lands on which the Department failed to meet ANILCA requirements during the last twelve years. At least 68 million acres qualify as wilderness, 52 million acres on refuges and 16 million acres on parks. The wilderness review EIS’s have been completed and no new NEPA compliance is required for the Secretary and the President to act and make maximum wilderness proposals to Congress.

The lands subject to the Sec. 1317 wilderness review are under threat from development, including the State of Alaska’s efforts to build roads, are extremely important to protecting the ecosystems they are part of, and are important to protecting the wildlife resources rural Alaskans require to maintain their subsistence lifeways. Interim protection of the non-wilderness lands would override the deficiencies in the General Management Plans of the parks and the Comprehensive Conservation Plans of the refuges that resulted from decisions made by Administrations hostile to wilderness and would direct the agencies to protect these wilderness values until Congress can act.
NATIONAL PARK ISSUES

Recommended Action

In the following parks, decide major policy issues consistent with ANILCA legislative intent and existing law and NPS policies:

Wrangell-St. Elias National Park

--Eligibility to engage in subsistence activities in the park. The issue is whether subsistence resident zones should be established, and all present and future residents thereby made eligible, or whether subsistence users should be limited to only those residents who had, or were members of families that had, engaged in customary and traditional subsistence activities prior to the establishment of the park.

How the NPS decides the Wrangells subsistence issue could set the pattern for similar determinations in the other 1980 nation parks.

Denali National Park

--The State of Alaska is pursuing increased motorized access, and control over access in general through right-of-way assertions under Revised Statute 2477. It is also expected that the State will soon assert ownership of the lands beneath many streams and lakes within the 1980 park additions. If successful, these "submerged lands" could be vulnerable to state mining claims and forms of motorized access that are not allowed in the park under existing law.

Gates of the Arctic National Park

--Anaktuvuk Pass villagers seek unrestricted off-road vehicle access on national park lands adjacent to village corporation land. An agreement was reached between the villagers, Arctic Slope Regional Corporation, and the previous administration that would provide this access in return for development restrictions on village corporation land.

But environmental organizations oppose the agreement, the most controversial feature of which is the proposed decategorization of national park wilderness to non-wilderness park in order to accommodate the unrestricted off-road vehicle. Under existing federal law, national parks are closed to such use, except on designated trails or roads.
Katmai National Park

--Resolving the bear-human conflict at Brooks River is the subject of a "Development Concept Plan" due out this September. Stripped to its essentials, the issue is whether the existing NPS and private lodge facilities should be relocated to another site further away from Brooks River, but still within walking distance, or moved out of the park entirely, to private (Native) lands adjacent to the west end of the park, or to other private lands at King Salmon.

Scientific studies sponsored by the National Park Service suggest a shift to the periphery of the park, as does NPS general policy of the location of major visitor and administrative facilities.
WILDERNESS REVIEWS ON BLM LANDS IN ALASKA

Recommended Action

Rescind former Interior Secretary Watt’s directive to BLM that prohibits wilderness reviews on BLM lands in Alaska, and direct the BLM to go forward with wilderness reviews on those lands. Reconsider recommendations for wilderness on the Central Arctic Management Area (CAMA) and submit new areas and recommendations to the President for Congress to consider.

Background

The opportunities to review the wilderness potential of BLM lands in Alaska has been specifically prohibited by the last twelve years of Administration. As with the rest of the nation, it should be a matter of national policy consistency that the BLM lands of Alaska be afforded a proper wilderness review and consideration by Congress.

Former USDI Secretary James Watt directed that no wilderness reviews were to be done on BLM lands in Alaska, except where specifically called for in ANILCA, such as in the Central Arctic Management Area (CAMA) where only 45,000 acres was recommended in the Nigu-Etivluk area, out of several million acres that qualified.

The Secretary should rescind that order and direct BLM to conduct the appropriate wilderness reviews on Alaska BLM lands, and further, should submit new wilderness recommendations to Congress for the reviews that were conducted on the CAMA lands.
WILD AND SCENIC RIVERS

Recommended Action

(1) Formal study reports and recommendations for wild river designation should be prepared for the Colville, Nigu-Etivluk, and Utukok rivers within National Petroleum Reserve-Alaska.

(2) The following ANILCA study rivers found to be eligible (but not recommended by the Reagan and Bush administrations) should be recommended for wild river status: Kisaralik, Sheenjek (lower segment), Situk (On Tongass N.F.; Sec. Espy should be encouraged to forward recommendation), Porcupine, and Squirrel.

Background

In another of ANILCA’s unfortunate compromises, the three NPR-A rivers escaped formal WSR reports and recommendations to Congress, although named in the Act as study rivers. The Secretary has discretion to forward a report and recommendation to Congress notwithstanding the escape clause in the Act.

The other study rivers named above were found fully qualified for designation as wild rivers, but the Reagan-Watt regime invented spurious reasons for finding them "unsuitable" for inclusion in the WSRS, e.g., local and state opposition to designation.
BLM STUDY OF POTENTIAL WILD AND SCENIC RIVERS

Recommended Action

Negotiate a settlement of CC American Rivers, et al. vs. Babbitt, et al. The lawsuit challenges BLM's 1990 decision to halt studies of potentially eligible wild and scenic rivers in Alaska. American Rivers and other plaintiffs have had favorable preliminary contacts with BLM Director Baca and the Department's Solicitor's office. The litigation is now on hold pending settlement discussions at the BLM's request. Formal meetings will be held soon. Strong direction from the Secretary will help ensure a speedy settlement of this issue.

Background

The Wild and Scenic Rivers Act requires federal agencies to study potential wild and scenic rivers in federal land management plans, such as BLM Resource Management Plans. The BLM began a nationwide program to implement this mandate beginning in 1987. Literally hundreds of rivers have been found eligible for inclusion in the National Wild and Scenic Rivers system by the Forest Service and BLM. Since 1988, more than 90% of the 73 rivers added to the National Wild and Scenic Rivers system were identified as eligible in federal land management plans. BLM is actively engaged in rivers studies in every state, except Alaska.

In December, 1989, American Rivers filed a timely administrative Protest of the Utility Corridor Resource Management Plan, alleging that the RMP failed to consider potential wild and scenic rivers, in violation of BLM policy, the Wild and Scenic Rivers Act and other statutes.

In April, 1990, the Southcentral [Alaska] Resource Area announced it had evaluated more than 290 rivers as part of its RMP planning process and found 13 rivers to be eligible.

On June 4, 1990, BLM Director Jamison issued a decision on American Rivers' Protest of the Utility Corridor RMP, agreeing that the RMP violated agency policy implementing the Wild and Scenic Rivers Act and requiring additional river planning to bring the RMP into compliance with the Act.

However, in December 1990, Director Jamison abruptly reversed his position and ordered the Alaska State Director to halt any river planning in Alaska, claiming erroneously that the Alaska National Interest Lands Act and other policies prevented BLM from studying potential wild and scenic rivers in Alaska. Conservationists believe
that Director Jamison's decision was the result of pressure brought by the Alaska Congressional delegation, mining and timber interests.

The Forest Service has ignored Director Jamison's legal opinions and continued its study of potential wild and scenic rivers as part of its forest planning process. Draft revisions of the Tongass National Forest plan identified 112 rivers eligible for inclusion in the national rivers system.

Director Jamison's policy, if not reversed, threatens to unravel the Forest Service's river studies in Alaska and also places in jeopardy river studies throughout the country.
WILDLIFE MANAGEMENT ON FEDERAL LANDS AND WATERS IN ALASKA

Recommended Action

Immediately withdraw from the Memoranda of Understanding (MOU’s) with the State of Alaska, which delegate vast authorities to the State for wildlife management on federal lands and waters, and negotiate new MOU’s that reassert a greater federal role in fish and wildlife management on federal lands and waters and makes those authorities consistent with the purposes of ANILCA, the Wilderness Act, the Endangered Species Act, FLPMA, and the standards for wildlife management practices in other states.

Background

This wildlife management issue artificially increases the complexity of the legally required federal stewardship of the national parks, refuges, forests, and BLM lands in Alaska, and the waters thereon, by substantially delegating management authority to the State of Alaska that should be retained by the federal government.

In the early 1980’s, then USDI Secretary James Watt signed very permissive Memoranda of Understanding (MOU’s) with the State of Alaska delegating almost all wildlife management authorities on federal lands and waters to the State. It is under these authorities that the State has more recently tried to exert plans for wolf control on federal lands, both on the ground and in the air.

For example, the 1982 agreement allows the State’s emphasis on maximum sustained yield of harvested species, as called for in its Constitution to dominate, despite conflicts with ANILCA purposes of maintaining natural diversity. As a result, the State proposes predator control on wolves as a way to increase moose and caribou numbers to allow more hunting of them for game. Another example is the Kenai National Wildlife Refuge Furbearer Management Plan in which the State has exerted most of the authority over harvest levels of furbearers to the detriment of maintaining sustainable population levels of species such as lynx.

The Secretary should renegotiate these MOU’s to reassert federal authorities over wildlife management to be consistent with the purposes of ANILCA and other federal law, and practices in other states.
TRANS ALASKA PIPELINE SYSTEM UTILITY CORRIDOR MANAGEMENT

Recommended Action

Withdraw the Recreation Area Management Plan (RAMP) issued by the BLM for the Trans Alaska Pipeline System Utility Corridor (TAPSUC), and assert federal management control over the State’s use of the Dalton Highway as intended under ANILCA to protect the land management integrity of the adjacent wilderness national park and refuges, as well as to maintain the purposes of the Utility Corridor as established by Public Land Order and law. Modify the right of way grant to the State of Alaska to prohibit uses that would impact on the adjacent federal areas.

Background

Without any public comment period or defensible NEPA process, the BLM published a Recreation Area Management Plan (RAMP) in 11/91 for the TAPS Utility Corridor that authorizes significant development of recreational facilities and access to this very remote area. This plan was the last Administration’s response to the State of Alaska’s drive to open up the Dalton Highway within the Utility Corridor to the public without any real controls on collateral impacts on adjacent federal lands in the Utility Corridor itself such as traffic, safety, and enforcement or controls to protect adjacent Conservation System Units. The State of Alaska neither has sufficient budget nor the intent to provide enforcement personnel and resources to manage the impacts of opening the Dalton Highway on federal lands.

The four federal ANILCA Conservation System Units that would sustain significant negative impacts from unmonitored and uncontrolled access to the Utility Corridor are the Arctic National Wildlife Refuge, Gates of the Arctic National Park and Preserve, Kanuti National Wildlife Refuge, and Yukon Flats National Wildlife Refuge. Rather than propose an extensive and unnecessary recreational development plan under the assumption that the State of Alaska will get its way on the use the Dalton Highway, BLM should withdraw the RAMP and assert that the area should be managed as intended under ANILCA. ANILCA provides a management regime that will allow for three kinds of traffic use (industrial, bus, and local) in a manner that resolves these issues and protects the integrity of the adjacent federal lands and interests.
SUBSISTENCE

Recommended Action

As provided under ANILCA, direct all USDI agencies to work toward truly cooperative management regimes with Alaska Natives in subsistence and wildlife management.

Background

A very unique situation exists in Alaska where there are established rural Native and non-Native subsistence economies in "bush" Alaska that rely on the taking of wild game for their very livelihood.

Title VIII of ANILCA was specifically designed to allow those subsistence economies to continue in a manner that protected the future of such activities for the people reliant on them by giving allocation priority to subsistence users over sport and commercial taking of fish and wildlife. Rural Alaskans who can demonstrate a customary and traditional subsistence use of fish and wildlife resources are granted a preference for such uses.

The State, however, has embarked on a course of trying to make all Alaskans eligible for subsistence, thus exaggerating the pressures on allocation decisions of limited game between commercial, sport, and subsistence uses. Even though the federal government took back subsistence management authority from the State, the State still has sport management responsibility. Under Title VIII, subsistence concerns cannot be adequately addressed by the federal government without also having authority over sport harvests and allocations. See also recommendations on wildlife management MOU's.

USDI should work toward truly cooperative management regimes with Alaska Natives in order to adequately fulfill subsistence purposes of federal lands. This is essential because of extreme polarization between the government and rural hunters, and the fact that there will never be funds for adequate law enforcement otherwise.
PROTECTION OF SUBSISTENCE USES AND HABITAT -- ANILCA SECTION 810

Recommended Action

Adopt an interpretation of section 810 of ANILCA which fulfills the section’s purpose of preventing adverse impacts to subsistence activities and resources from federal actions in Alaska.

Background

Section 810 of ANILCA is one of several provisions enacted by Congress in 1980 to protect subsistence activities in Alaska. For many Alaskans, especially Natives residing in remote villages, subsistence hunting, fishing and gathering is still the primary source of food. And for Alaska Natives, subsistence is a critical part of a culture that has survived the harsh environment of Alaska for millennia. Congress enacted section 810 to ensure that the government’s management of federal lands in Alaska did not interfere with the subsistence way of life. Section 810 imposes two basic obligations on federal agencies. First, agencies must evaluate the impact on subsistence activities, resources and habitat of federal management decisions. Second, if that impact may be significant, the agency must take steps to avoid or minimize the impact, including altering the proposed action.

The Reagan-Bush administration reluctantly and only partially complied with this provision, and then only as it was forced to by litigation. In particular, federal agencies have failed to follow the requirement of the second part of section 810—the obligation to avoid or minimize impacts. For example, the Forest Service has regularly found that its 50 year contracts with two pulp mills justify the destruction of subsistence resources in the Tongass National Forest despite the mandate from Congress in section 810 to prevent such impacts. A strong, protective interpretation from the Secretary of Interior of the federal government’s obligation to protect subsistence resources and habitats will ensure the promise of section 810 will finally be fulfilled in Alaska.
CENTRAL ARCTIC MANAGEMENT AREA WILDERNESS PROTECTION

Recommended Action

Direct BLM to manage federal lands in the Central Arctic Management Area (CAMA) to protect their wilderness character, as required by section 1004 of ANILCA, until Congress acts on wilderness area recommendations. BLM’s refusal to comply with this ANILCA requirement is the subject of a lawsuit brought by several conservation groups. Reversal of the present BLM position will resolve that litigation.

Background

In 1980, Congress directed the BLM to study the potential for wilderness designations of federal lands north of the Brooks Range between the National Petroleum Reserve-Alaska and the Arctic National Wildlife Refuge—an area now known as the Central Arctic Management Area or CAMA. Congress also directed that, until Congress could decide whether to designate any lands in the region as wilderness, BLM was to manage all the CAMA lands to protect the existing wilderness values. See sections 1001, 1004 of ANILCA. In the 1980’s, BLM conducted the required study of the CAMA lands and ultimately recommended to the Secretary that only 41,000 of the millions of eligible acres be protected as wilderness. No recommendation has yet been transmitted to Congress. Though BLM can be faulted for forwarding an inadequate wilderness proposal, at least throughout the 1980’s, BLM interpreted section 1004 of ANILCA to require it to protect the wilderness character of all CAMA lands pending a decision from Congress on wilderness designation.

Then, without any foundation or explanation, in January, 1991, the BLM suddenly reversed its position and in a Record of Decision adopting a land management plan for the CAMA lands, BLM indicated only the 41,000 acres it proposed for wilderness would be protected. The remainder of the CAMA lands would be managed for multiple use, including oil and gas and mining activities. Because such activities could destroy the wilderness values of these lands and preclude designation as wilderness by Congress, several conservation groups challenged this decision in a complaint filed in May, 1992. The claim on this issue is part of a larger case involving BLM lands which also includes the Wild and Scenic Rivers claim presented separately in this Alaska briefing package. The BLM and Department of Justice have asked the court to put the litigation on hold until August 30, 1993 to enable the BLM to review its position on the issue and discuss possible settlement. We request that you ask the BLM to reverse its present position on wilderness management of CAMA lands and settle the pending lawsuit. To meet ANILCA’s requirements, all BLM managed lands in the CAMA region must be managed to protect their wilderness value pending action by Congress.