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U.S. Fish and Wildlife Service
Public Comments Processing
Attn: FWS-R7-NWRS-2017-0058, MS: JAO/1N, 5275
Leesburg Pike
Falls Church, VA 22041-3803

Submitted via email and U.S. Mail

RE: Comments on U.S. Fish & Wildlife Service Proposed Rule for Refuge-Specific Regulations; Public Use; Kenai National Wildlife Refuge (Regulation Identifier Number 1018-BC74)

These comments are offered on behalf of the national office of Wilderness Watch as well as its Alaska Chapter. Wilderness Watch is a non-profit conservation organization dedicated to education and advocacy for protection and proper stewardship of our Nation's National Wilderness Preservation System and the National Wild and Scenic Rivers System.

Our review of the proposed regulations and accompanying environmental assessment reveal numerous process irregularities, inadequate analyses, incomplete information, and fails legal requirements.

Proposed Regulations Would Allow Baiting of Brown Bears Within the Kenai National Wildlife Refuge

The proposed regulations would allow the use of bait to lure brown bears so that hunters can kill them more easily within the Kenai National Wildlife Refuge. This represents a significant reversal from current (2016) Kenai Refuge regulations which specifically prohibit the baiting of brown bears in the Refuge because of the harmful effects such hunting would have on the primary refuge purpose to conserve the natural diversity. The 2016 rule was established following a period of high numbers of Kenai brown bears being killed by hunting, supposed defense of life and property and road kills. It was also enacted to protect brown bears within the refuge from Alaska Board of Game proposals that would have allowed brown bear baiting within the Refuge. The use of bait to attract bears greatly increases hunter success rate and will likely result in excessive over-kill of bears in the Refuge and also impact the entire brown bear population on the peninsula.

The Kenai peninsula brown bear population is relatively small, geographically

isolated from mainland populations and genetically distinct.¹ No explanation, or analysis is provided in the proposed regulations to justify brown bear baiting on the Kenai Refuge. Instead, this rule change represents an agenda that caters to trophy hunters and the state wildlife managers interested in artificially boosting moose populations for hunters.² Recent polling of Alaskans on this issue shows that a very significant majority oppose brown bear baiting on the Refuge.³ This type of predator/prey manipulation is clearly at odds with the purpose of the Kenai refuge and does not have support by a majority of the public.

Wilderness Watch is especially concerned that if brown bear baiting is allowed in parts of the Refuge that are not designated as Wilderness, the effects of such activity would never-the-less degrade the integrity of the Kenai Wilderness as well. Many brown bears move freely between both categories of refuge lands, and thus the increased mortality of brown bears resulting from baiting, would also impact the natural conditions within Wilderness lands. Manipulation of natural conditions is counter to the Wilderness Act and its requirement that federal agencies must preserve wilderness character (Section 4(b)).

We are also concerned that baiting of brown bears in the Refuge can result in conditioning them to human foods and scent and thereby constitute a risk human safety. It is ironic that every spring the Alaska Department of Fish and Game puts out public service announcements urging people to remove garbage that may have accumulated near their property, and encouraging them to clean up debris from winter bird feeders that are near homes to prevent attracting bears and creating a danger for people. Yet at the same time the Department is busy issuing bear baiting permits to hunters. The 2016 regulations prohibiting brown bear baiting acknowledged a risk for human safety. We are not aware of any change in bear behavior in the last 4 years that negates public safety risks.

Proposed Regulations Would Remove Federal Permit Requirement for Trapping on the Kenai Refuge

We believe that trapping has no place in a National Wildlife Refuge, especially as most Americans no longer support such cruel treatment of wildlife. We recommend that the Service initiate regulations that prohibit trapping in our National Wildlife Refuges.

The proposed regulations move drastically in the opposite direction by abolishing the Kenai Refuge trapping permit requirement. Without the federal permit, trappers can set traps near trail heads and other public facilities in the Refuge. Experience has shown that such trap placement conflicts with other public uses, especially for those who hike in the Refuge with their dogs. The current federal permit includes restrictions that help to reduce catching of non-target species such eagles and other birds of prey. It also requires trap identification, first time trapper orientation training, and reports from each trapper on the species and number of animals killed in traps. If the proposed regulations are finalized, none of these provisions will be required. This will create many conflicts with other visitors, and it will impair fulfillment of the conservation purposes of the Kenai Refuge.

¹Morton et al 2016

²Ripple et al 2019

³Remington 2020

Proposed Regulations Would Allow Increased Public Access Using All Terrain Vehicles, Bicycles, Game Carts and Motor Vehicles in the Kenai Refuge

The Kenai National Wildlife Refuge has more public use than any other refuge in Alaska due to road access to Anchorage, Alaska's largest city, and road connection to Seward and Homer. It is located in close proximity to the communities of Kenai, Soldatna, Cooper Landing, Ninilchik and Anchor Point. Roads and trails associated with oil field facilities also provide access to Refuge lands. It is especially popular in the summer when thousands of anglers are in the Refuge during salmon runs on the Kenai and Russian Rivers. Intensive public use is perhaps the greatest challenge for refuge managers.

We are opposed to all of the provisions in proposed regulations that expand access within the Refuge. Increased access by hikers, bicycle riders, mountain bikers, ATV operators, snowmobilers, hunters with game carts, and autos will add more impacts to fish, wildlife and their habitat that are already enduring excessive impacts which have incrementally increased over time. The proposed regulations would result in less security and more disturbances for wildlife. The Kenai National Wildlife Refuge was established as a refuge, not a recreation area. The National Wildlife Refuge System used to have a slogan, "*National Wildlife Refuges – Where Wildlife Come First.*" When levels of public use are a moving target, ever upwards, wildlife are often pushed aside.

The regulation further fail to consider the impacts of opening more refuge lands to bicycles and, by extension, ebikes. Evolving technology of bicycles and the ability to travel significantly farther and faster with these motorized bikes means the impacts of opening more refuge lands will be significant. This is true for most traditional mountain bikes, but ebikes represent an even greater concern. Today's ebikes can easily reach speeds of nearly 30 miles per hour, and travel 50 miles or more on a single battery charge and with minimal peddling.⁴ Tomorrow's ebikes will undoubtedly go further and faster. The impacts from this foreseeable technological change will escape environmental review unless analyzed during the currently regulatory process.

Although the proposed regulations provide for increased motorized and mechanized public access to non-wilderness lands within the Refuge, because of close proximity and other ecological relationships such as the movement of wildlife, between Wilderness and non-designated lands, we are concerned that the designated Wilderness will also be further impacted by these provisions. Such impacts to Wilderness are not adequately addressed in the proposed regulations and environmental assessment.

Proposed Regulations Do Not Follow Legal Requirements and Agency Policy

Following passage of the Alaska National Interest Lands Conservation Act (ANILCA) the US Fish and Wildlife Service entered into a Memorandum of Agreement with the Alaska Department of Fish and Game in 1982 regarding implementation of the Act. A critical element

⁴ see <https://www.cynergyebikes.com/about-ebikes-s/117.htm>

of this Agreement specified that the State of Alaska agreed: “To manage fish and resident wildlife populations in their natural diversity on Service lands.” When the Alaska Board of Game abandoned their commitment and proposed to allow the baiting of brown bears in the Kenai Refuge, the USFWS implemented regulations in 2016 that prohibited such baiting. The proposed regulations would rescind the 2016 ban and now allow baiting of brown bears, however, justification and analysis for this change is not provided. If the proposed regulation is finalized, the USFWS will also fail to fulfill its responsibility under the agreement and more importantly, it will have failed to fulfill the purpose of the Kenai Refuge itself: to conserve the fish, wildlife and their habitats in their natural diversity.

The National Wildlife Refuge Administration Act requires that before an activity is allowed on a Refuge, there must be a determination that the activity is compatible with the purposes of the Refuge and the Refuge System. No such determination has been made with regard to the baiting of brown bears on the Kenai Refuge. Furthermore, when the Service considers opening a Refuge to a new activity, such as baiting brown bears, 50 CFR 36.42(g) requires that the Refuge Manager “shall, upon request, hold a hearing in the affected area and other location as appropriate prior to making a final determination.” Thus far no such hearing has occurred.

Due to the numerous shortcomings of the environmental assessment and the entire proposed regulation process, as well as a failure to determine if elements of this regulation are compatible with refuge purposes and a lack of public involvement, we recommend that these regulations be abandoned. Before any further action is taken, the Service must address these deficiencies and prepare an environmental impact statement in full compliance with the National Environmental Policy Act.

In addition, Wilderness Watch hereby requests that a public hearing be held regarding the opening of the Kenai National Wildlife Refuge to brown bear baiting, no longer requiring a federal permit for trapping and the opening of numerous roads and trails to bicycles, mountain bikes, ATV’s, snowmobiles and automobiles.

Thank you for the opportunity to comment on this very important issue.

George Nickas
Executive Director

References:

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Ripple, W.J., S.D. Miller, J.W. Schoen, and S.P. Rabinowitch. 2019. Large carnivores under assault in Alaska. *PLoS Biol.* 17(1) e3000090.

Remington Research Group. Alaska Public Opinion August, 2020.

Cynergy E-bikes Frequently Asked Questions. <https://www.cynergyebikes.com/about-ebikes-s/117.htm>