

STATE OF ALASKA

CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

SEAN PARNELL, Governor

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January 28, 2011

Mr. Kevin Kilcullen
Information Collection Clearance Officer
U.S. Fish & Wildlife Service
MS 222-ARLSQ
4401 North Fairfax Drive
Arlington, VA 22203

Re: Proposed Information Collection OMB Control Number 1018-0102

Dear Mr. Kilcullen:

The Citizens' Advisory Commission on Federal Areas has reviewed the above referenced information collection for three forms to be used as applications for special use permits within the National Wildlife Refuge System. We understand that the three forms will replace the single form (FWS Form 3-183) now in use for all National Wildlife Refuges, including those in Alaska. Previously, applications for special use permits for refuges in Alaska were made using FWS Form 3-2001 for which the OMB approval has expired.

The Commission believes strongly that permits for the use public lands and resources should be required only when and where absolutely necessary. However, we do recognize that permits are appropriate for certain activities and can be an important management tool. We support any action which reduces the amount of paperwork necessary to secure those permits.

Although the current proposal would increase the number of forms from one to three, it appears that, depending upon the activity being permitted, information requirements can be focused more narrowly than is possible with the existing application form. We understand that one problem with the Alaska form was that applicants sometimes were required to provide information that was unnecessary or irrelevant to the activity being permitted. Requiring an applicant to submit only pertinent information eases the burden on the public.

While there may have been problems with the Alaska application form, we are concerned that replacing that form with the more generalized versions could result in similar unnecessary information requests and additional burdens to the public unless those forms are carefully crafted.

All units of the National Wildlife Refuge System in Alaska were either expanded or created by the Alaska National Interest Lands Conservation Act (ANILCA). While the National Wildlife Refuge System Act of 1966 (16 USC 668dd-668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57), and the Refuge Recreation Act of 1962 (16 USC 460k-460k-4) govern the administration and uses of national wildlife refuges nationwide, ANILCA provides specific authorization and guidance for the management of refuges in Alaska.

The statutory provisions in ANILCA are implemented, in part, by the regulations at 50 CFR §36.41. These regulations “apply to the issuance and administration of competitively and noncompetitively issued permits for economic and/or other privileged uses on all national wildlife refuges in Alaska.” (§36.41(a)) The information requests included in any revised application form for a special use permit on an Alaskan refuge must incorporate the guidance found in these regulations. The need for any additional information requests or reporting requirements must be fully supported.

The regulations in §36.41(d)(2) allow an applicant for a noncompetitively issued permit to present an application verbally. The notice and request for comments makes no mention of this, but the application process must continue to accommodate verbal applications as provided for in the regulations.

We note that the notice properly identifies other Alaska specific regulations at 50 CFR §§ 36.31, 36.32, 36.33, 36.37 and 36.39 as providing some of the authorities and procedures for allowing permits on refuges. Any information requests associated with the proposed new forms must be limited to that necessary to meet the requirements in these regulations for refuges in Alaska.

It is difficult to fully assess the full benefits or impacts from this proposal without being able to review the actual application forms and associated questions. We understand that those have not yet been completed. The information in the *Federal Register* notice (75 FR 73119) provides only a partial list of the types of information to be collected, and only a few specific examples of which application form will be used to permit a particular activity.

For example, FWS Form 3-XXXX (Commercial Special Use Application and Permit) is proposed to be used for permitting recreational visitor service operations and building and using cabins to support subsistence or commercial activities in Alaska. Clearly subsistence is not a commercial activity and the information that an applicant should be reasonably expected to provide in order to construct or use a cabin for subsistence activities would be significantly different than that necessary to construct a cabin to support a commercial activity.

We note the notice lists the information that will be collected and states that not all information will have to be provided, depending on the type of permit and specific activity. How will an applicant be advised of what information is required for their application? Is this left to the individual refuge manager or will there be national or regional guidance provided? Will instructions for completing the application be provided to the applicant?

We are aware of situations here in Alaska where applicants seeking permits for the same activity in more than one refuge are required to provide different types of information to each refuge. We understand that refuge managers may have different management needs and requirements, but lack of uniformity can increase the information collection burden on applicants. Clear guidance should be provided to regional offices and individual refuge manager to avoid confusion and prevent arbitrary and unnecessary information collection.

Most, if not all, refuges in Alaska have completed compatibility determinations for activities that likely would require a special use permit. This should help minimize the information requirements in those instances where an activity or use has been determined compatible.

Prior to final OMB approval we request the public be provided the opportunity to review draft versions of all three application forms.

We appreciate the opportunity to comment. Please contact our office at 907-374-3737 if you have questions or if we need clarify any of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Stan Leaphart", with a stylized, cursive script.

Stan Leaphart
Executive Director.