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of **ALASKA**
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Mr. David J. Hayes
Deputy Secretary
United States Department of the Interior
1849 C Street, NW
Washington DC 20240

Dear Deputy Secretary Hayes,

Thank you for your letter of October 18, 2012 asking for State of Alaska input to the report you are preparing for President Obama on an integrated management approach for the Arctic. We believe that such an approach must be founded on a collaborative federal-State relationship. With an improved relationship, the existing statutory and regulatory management structure will be adequate to ensure protection of the Arctic environment, while allowing for economic opportunity for Alaskans and the nation. Adding new layers onto the existing management structure would only burden the process while adding little benefit. Your interagency working group was created by Executive Order to facilitate coordinated and efficient domestic energy development in Alaska and the Arctic. We expect your new "integrated Arctic management" initiative to be consistent with these same goals.

Alaska's Unique Framework

As we proceed on a path to strengthen our collaborative relationships in managing the Arctic, it would be wise to remind ourselves of the unique frameworks that have already been established in Alaska. These frameworks were intended to balance the nation's need for protecting important Arctic lands, while allowing the people of the Arctic a means for generating an economy. All future discussions about Arctic management must be undertaken within the context of these frameworks.

- ***Alaska Statehood Act*** The Alaska Statehood Act of 1958 granted the State approximately 104 million acres of land, which was intended to help Alaska develop an economic base. Alaska was also granted ownership of State submerged lands of navigable waterways and submerged lands up to three miles offshore, and was given the primary authority to manage fish and wildlife on all lands and waters.
- ***ANCSA***: In 1971, Congress passed the Alaska Native Claims Settlement Act (ANCSA), which settled Alaska Native land claims with a land grant of 44 million acres and

payment of \$1 billion. Similar to the State land grant, the grant was provided in part to help provide a long-term economic base for village and regional corporations.

- **ANILCA:** After nine years of lengthy reviews and deliberations stemming from withdrawal processes initiated by ANCSA, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA) in 1980, establishing more than 100 million acres of federal land in Alaska as new or expanded conservation system units. The overarching intent in ANILCA is described in Section 101(d), which states:

*This Act **provides sufficient protection** for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, **and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people;** accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a **proper balance** between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the **need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.** [Emphasis added]*

This language, in addition to ANILCA's numerous provisions that protect access for traditional activities and to resources that are the bedrock of Alaska's economy, clearly illustrates that Congress understood the importance of balancing conservation objectives with Alaska's developing economy and infrastructure, and distinctive rural way of life. ANILCA embodies many hard-fought compromises, and its passage served to bring finality to the conservation issue in Alaska. Congress also recognized ongoing implementation would be challenging and therefore ensured consultation between the federal government and the State by including both Title XII of ANILCA, which was devoted entirely to federal-State cooperation, and numerous additional provisions that require some form of federal agency consultation with the State of Alaska.

The groundwork for a cooperative relationship already exists with ANILCA, but successful implementation takes effort and requires both an understanding and respect for the history behind the Act as well as the mandates that are unique to Alaska.

Alaska's Interests

Before discussing the specifics of our regulatory and policy recommendations for the integrated management approach that flow from the unique framework described above, Alaska's general interests should be clearly stated and explained.

As State of Alaska officials, we have a constitutional duty to responsibly develop and utilize Alaska's abundant natural resources for the benefit of our citizens, *and* to safeguard our world-class fish, wildlife, and natural environment. We take these obligations extremely seriously. That is why Alaska

has some of the world's most stringent standards on environmental protection and responsible resource development, and employs hundreds of some of the world's most accomplished scientists and technical specialists, including Arctic experts, to evaluate economic development projects. We pride ourselves on the exceptional record of responsible resource development and environmental protection we have achieved in over 50 years of statehood. We have been fulfilling our fundamental responsibilities, and will continue to do so for the benefit of our citizens.

The State also has a responsibility to confront the challenging socioeconomic issues that many of our citizens face. We see a strong nexus between economic and social issues, which drives our need for responsible development. Alaskan resource development projects provide opportunity and hope to many of our people, and support the foundation of healthy communities. We must continue to consider such social benefits as we evaluate the ramifications of responsible resource development.

One of the State's biggest frustrations over the last four years has been the fact that the federal government has not consulted with the State when making decisions of enormous impact on Alaska's people (e.g., the wild lands rule, the polar bear Endangered Species Act critical habitat designation, the Arctic exploration moratorium, and most recently the National Petroleum Reserve-Alaska decision). The State of Alaska was allowed little to no input, despite the fact that State officials possess technical expertise, historical experience, and first-hand knowledge of local needs that often exceeds that of federal officials. Such decisions have been opposed by a vast majority of Alaskans, but often the State was not even aware they were being considered until they were announced. We are hopeful that our comments below will be thoroughly considered during the preparation of your report, and look forward to seeing a meaningful change with regard to the issue of State involvement on federal decisions affecting Alaska as we move forward.

Arctic Opportunities and Needs

Alaska, the American Arctic, is still very much the frontier region of the United States. We have very little infrastructure. As we strive to adapt to the changing environmental conditions in our state, as new opportunities arise, and as both domestic and international Arctic activity increases, the State and federal governments must collaborate to address critical needs.

On a broad scale, it is not hard to envision a future Arctic including:

- Increased domestic and international shipping and tourism activity resulting from decreased sea ice.
- Offshore oil and gas development in the Chukchi and Beaufort seas.
- Increased fishing interest in Arctic waters
- Increased onshore oil and gas activity.
- Increased mining in the Ambler District and on Native Corporation lands in Northwest Alaska.
- Increasing populations and associated infrastructure in Arctic communities.
- Increased coastal erosion that threatens a number of coastal villages.

In addition to these Alaska-specific opportunities and challenges, broader opportunities will develop across the circumpolar Arctic. Other Arctic nations, as well as the global community as a whole, will look to the Arctic as an emerging frontier for development. We already see China and other non-Arctic nations establishing footprints in the Arctic. It is imperative to develop a plan to guide such activities to ensure rational and reasoned development occurs.

These opportunities will require fulfilling critical needs including:

- ***Infrastructure for access.*** Developing deep water port facilities in the Alaskan Arctic is a key infrastructure priority. We also need new road access for community benefit and resource development. Infrastructure connections to the Ambler Mining District and to northwestern Alaska for oil and gas development are a priority. Improved aviation facilities will be necessary.
- ***Infrastructure to support shipping, towing, and search and rescue capability.*** International shipping of cargo, crude oil, refined products, and potentially hazardous cargoes through the Bering Strait is growing, as are scientific exploration and marine tourism. Our Arctic neighbors are leaps and bounds ahead of the United States in investments in ice breakers, a critical resource to support escort and rescue efforts in areas with seasonal ice coverage. Navigation aids, forward basing for United States Coast Guard and Alaska Air National Guard, and ports are needed.
- ***Infrastructure for oil spill response.*** A tightly coordinated Arctic spill response system is critical. This requires improved communication systems across the Arctic in addition to the above.
- ***Infrastructure for energy.*** The Alaskan Arctic holds a high proportion of the world's cumulative Arctic resource potential. Combined benefits of resource development – satisfying needs for energy and promoting robust economic opportunity – will be key to long-term investment in critical infrastructure, ensuring long-term well-being for both Arctic peoples and our environment as well as meeting our nation's energy demands and reducing our dependency on foreign resources. This requires a stable and predictable leasing and permitting system and infrastructure such as pipeline corridors and production facilities.
- ***Infrastructure for health.*** While there have been great improvements in the overall health of our Arctic peoples, there is much still to do. Our Native cultures are still adapting to the integration with western culture, and we will need to devote more resources to address health issues and food security as the Arctic changes. Many Alaska coastal communities are threatened by coastal erosion, storm effects, sea ice retreat, and permafrost melt. Assistance to these communities must be provided.
- ***Infrastructure for the environment.*** With increasing Arctic activity comes a need for environmental regulatory oversight and response. Alaska's marine and coastal Arctic

resources and their uses are already tightly regulated by a vast and diverse array of federal, State, and local authorities. This existing oversight has a proven track record and is fully capable of ensuring the long-term health and viability of our marine and coastal Alaska resources. We do not support an additional layer of bureaucracy for zoning or coastal and marine spatial planning purposes. Instead, we support more focus on existing permitting and enforcement aimed at a more efficient, timely, and effective permitting process.

- ***Infrastructure for science.*** Collection and analysis of data and traditional knowledge are needed to better understand and monitor Arctic resources. We must support development of an Arctic monitoring plan as envisioned by the North Slope Science Initiative to assess the environmental baseline, its variability and temporal and spatial changes. We must invest in science to understand the effects of ocean acidification and effects of climate change on marine resources and the Arctic food web.
- ***Infrastructure for fisheries.*** The North Pacific fishing industry has made significant investments in sustainably managed fisheries. As ocean conditions change and fish stocks move, surveys and stock assessments necessary to open fishing opportunities in the United States Arctic Exclusive Economic Zones will be critical. Fisheries are a vital component of Alaska's economy and are the backbone of much of the infrastructure along Alaska's coastline; active fishing fleets also serve a lifesaving first responder role throughout their range.
- ***Complete mapping.*** The planet Mars has been mapped more accurately than the American Arctic. Through an initiative led by the State of Alaska, and with significant federal assistance, this has been changing. But much still needs to be done – a digital elevation model for our uplands needs to be completed. As shipping increases, new bathymetry must also be acquired.
- ***Streamlined permitting.*** General and streamlined permits to clear pathways to opportunity are needed. We must focus on collection of real, practical information, not the creation of new layers of authority based solely on precautionary principles.
- ***Efficient permitting.*** We must also use the extensive and detailed amount of information we *already* have about projects and permits in Alaska to assist the examination of future projects. When appropriate, we need to use previous permitting work as a foundation for similar or co-located projects, so we can expedite their authorization and development.
- ***International agreements to cooperate on infrastructure, safety, access, and enforcement.*** Due to shared maritime boundaries with Canada and Russia and increasing global investment in the Arctic, Alaskans have a particular interest in international coordination to leverage limited infrastructure in the region and to ensure marine resources off Alaska are not compromised by the activities of other nations.

- ***Outer Continental Shelf (OCS) revenue sharing.*** The Gulf of Mexico has a revenue sharing plan in place that ensures benefits of offshore oil and gas development are shared with adjacent states and communities. This has worked well and should serve as a model for Alaska's OCS. Revenue sharing will improve Alaska's ability to support our Arctic communities' infrastructure needs and be a partner in the investments noted above that are vital to meet economic, environmental, and cultural needs.

The Path Forward

The path forward to a future Arctic is clear to Alaska. The federal government and the State of Alaska must develop a strong partnership to invest in our Arctic future. This partnership includes ensuring that the State is an equal and sovereign partner. It also ensures that all Alaskans, including rural Alaskans and Alaska Natives, have a seat at the table, and that there is a mutual respect for each other's resource management needs. This partnership does not need large overarching federal plans, nor does it need additional layers of federal regulation. The mechanisms for protecting the Arctic's environment while allowing for responsible resource development already exist. All that is needed is a more effective and dedicated collaborative relationship between the federal government and the State of Alaska.

We believe the key to improvement here is to strengthen the State-federal relationship. The State and federal permitting processes currently in place provide the ability for decision makers to make responsible decisions on projects while taking into account broader concerns. The typical environmental impact statement looks at impacts far beyond just the specific project, with significant effort on analyzing cumulative impacts, health impacts, and socioeconomic and subsistence impacts. The National Environmental Policy Act, USACOE 404 permitting system, Magnuson-Stevens Act, Clean Water Act, Clean Air Act, Marine Mammal Protection Act, and Endangered Species Act make up the system that was established by Congress and must be followed unless it is changed by statute, not presidential executive orders or administrative actions.

The State of Alaska has developed an integrated and coordinated approach to resource development permitting for major projects. The Alaska Department of Natural Resources hosts a special office, the Office of Project Management and Permitting, that coordinates communications and activities between all of the relevant State agencies as major projects go through permitting and development. This group has developed an excellent reputation for efficiency with local and federal agency staff, the public, and industry officials. Additionally, they have formed a cooperative group with the North Slope Borough through a memorandum of understanding that allows the State and local governments to share information and work together on permitting challenges. This approach is unique to the nation and has proven to be successful on numerous projects for more than 15 years. While the success of responsible and efficient permitting is also dependent on many different federal agencies, there is no comparable coordination office for our teams to work with. We believe that the federal government must create a coordination process similar to the one developed by Alaska, or better yet, become true partners and utilize the best practices already put in place by the State.

We believe that improved federal permitting coordination will lead to a more optimal approach. Federal-State permitting coordination should include:

- early communication when issues first arise;
- genuine consultation and cooperation concerning identification of data needs, if any, and subsequent research methodology;
- consideration of State and other non-federal management tools if a management response appears to be necessary; and
- internal State review of draft federal proposals that address or affect State management authorities and jurisdictions.

A more effective and sophisticated State-federal relationship would also help the federal agencies better understand the State's management goals and needs, and encourage development of collaborative solutions instead of forcing solutions that do not fit. For example, the United States Environmental Protection Agency has overextended its authority to assert management jurisdiction over eight million acres of Alaska's statehood land entitlement in the Bristol Bay watershed. If this effort continues, the State will have no choice but to vigorously defend its statutory right to develop its resources on State lands as part of its statehood compact with the federal government. This would be unfortunate and unnecessary, as the State and federal governments have the same goals in this situation – to allow Alaska to sustain its economy consistent with the statehood compact and to conserve the fishery and other environmental resources of Bristol Bay.

Another area where there is an alignment of State and federal interests, and where application of these effective cooperation principles will be extremely important, is the potential development of a large diameter gasline to commercialize North Slope gas. Such a line would supply urgently needed energy supplies to Alaskans throughout the state, and provide thousands of good jobs for the Alaskan economy. These benefits will also accrue to the nation as a whole, improve our trade balance, strengthen our national and energy security, and support the build out of critical infrastructure in the Arctic. The State has made significant progress in the last year on aligning all of the parties involved with this important (and long-standing) project. The next step will require the cooperation of federal permitting agencies, and the efficiency discussed above will be critical. The investments required for this undertaking are significant, and depend on clear and timely permits. Fortunately, we do not have to start at zero on this project. An impressive amount of information for similar gasline projects has already been gathered, including environmental impact statements, liquid natural gas export license applications, and Federal Energy Regulatory Commission approvals. This knowledge should provide a foundation for evaluating this project so that the permitting process can be expedited. There is no reason to duplicate all of this existing information, especially when delays threaten to derail such a strategic project and its associated benefits.

I think we all agree that the strength of a good permitting process stems from good data going into the process. Much work has already been done on establishing systems for better coordination of Arctic research and data gathering, and we recommend taking full advantage of these prior efforts. Several entities have excelled at coordinating and disseminating Arctic data and research: the United States Arctic Research Commission, the North Slope Science Initiative, the Alaska Ocean Observing System, and the North Pacific Research Board. Additionally, the Administration has adopted

existing policies on Arctic security, such as NSPD-66. There is no need to duplicate such efforts. The State of Alaska has repeatedly voiced concerns about federal initiatives such as Landscape Conservation Cooperatives and National Ocean Policy, and now perhaps Integrated Arctic Management, which appear to demand creation of duplicative new systems of coordination under executive order. As budgets tighten, we feel there is a greater need to focus limited federal resources on maintaining programs that advance foundational science, increasing the effectiveness of existing processes rather than creating new bodies to govern in Alaska, and investing in Arctic infrastructure.

As I have discussed above, Alaska has a unique framework of federal laws that require different management approaches than federal lands in the Lower 48. The State and federal agencies have long agreed that staff must be well-educated on these differences. The Department of Interior recently closed its training office in Alaska, which means federal agencies are at risk of losing this important and unique knowledge, especially as more federal staff with institutional knowledge of ANILCA retire and are replaced with new staff with little or no understanding of this important law. This loss presents us with both a challenge and a partnership opportunity to find resources to support this critical educational need.

In conclusion, Alaska sees changing conditions in the Arctic as an opportunity to provide economic and social opportunity for both Alaskans and the United States. The State of Alaska looks forward to working with you towards ensuring orderly development of these opportunities in manner that respects our mutual sovereign authorities and roles. We urge you to be deliberative in the planning process and establish greater cooperation and interaction with Alaska so that a meaningful partnership can develop. We also urge you to allow us more consistent and direct participation in your Interagency Working Group.

I look forward to hearing from you and to more fully engaging in your interagency working group.

Sincerely,



Ed Fogels
Deputy Commissioner

Cc: Stefanie Moreland, Office of the Governor
Kip Knudson, Office of the Governor
Larry Hartig, Commissioner, Alaska Department of Environmental Conservation
Cora Campbell, Commissioner, Alaska Department of Fish and Game