

Statewide ANILCA Implementation Program and the Citizen's Advisory Commission on Federal Areas Examples of Accomplishments - February 27, 2015

In 1980, the Alaska National Interest Lands Conservation Act (ANILCA) designated over 100 million acres of new or expanded conservation system units (CSUs) and other conservation designations in the State of Alaska. To accommodate the unprecedented size of these new designations, the State's developing resource-based economy, limited infrastructure, and distinctive rural lifestyle, ANILCA included numerous similarly unprecedented exceptions. Many provisions of ANILCA specifically direct federal agencies to consult and coordinate with the State of Alaska; thereby providing the State with valuable opportunities to influence land management decisions that affect Alaskans and Alaska's economy.

Two distinct programs emerged following the passage of ANILCA to work with federal land managers to ensure that federal land management in Alaska remained consistent with congressional intent in ANILCA - the Statewide ANILCA Implementation Program (ANILCA Program) and the Citizens' Advisory Commission on Federal Areas (CACFA).

The Governor's Office and various State Departments established the ANILCA Program to ensure that all state agencies would be aware of and participate in the review of federal plans, projects, policies and regulations that implement ANILCA on federal lands in Alaska. The mission of the ANILCA Program is twofold – to monitor and advocate for the special provisions in ANILCA and to ensure that state interests are appropriately considered in federal land management decisions. Two state departments – the Alaska Department of Fish and Game (ADF&G) and the Alaska Department of Natural Resources (DNR) – have greater ANILCA-specific expertise and take a more active role in the program. The Statewide ANILCA Coordinator is currently administratively-housed within the Office of Project Management and Permitting within DNR.

CACFA was established by statute to identify and minimize potentially negative impacts to Alaska and its citizens from federal actions on any of the 239 million acres of federal land in the state. CACFA also monitors ANILCA implementation to give a voice to Alaskans navigating the complex management regulations and policies developed by federal land management agencies. CACFA is comprised of 12 commissioners; all appointed by either the Governor or the Legislature. Two members are sitting legislators and citizen appointees represent the diversity of users and uses of federal land in Alaska. CACFA serves as a primary point of contact for individual Alaskans who need assistance working with federal agencies. CACFA comments on federal actions separately from the State's ANILCA Program and is not bound by the State's or an agency's position.

While federal land management agencies are ultimately the final decision-makers on federal actions affecting federally-managed lands, the efforts of the ANILCA Program and CACFA affect many of those decisions in a variety of ways. The following are examples of accomplishments achieved by the ANILCA Program and CACFA over the last 10-15 years. Success for these programs is often measured in terms of questionable or unclear language or proposals being removed or corrected before federal plans and other documents are provided for public review, meaning that a "win" is not always visible or readily measurable. Collectively, however, the persistent efforts of staff in the ANILCA Program and CACFA have significantly contributed to the continuing recognition of ANILCA in federal documents and decisions and the preservation of its promises.

Both programs also work with federal agencies on establishing and tailoring processes that more meaningfully engage the public or provide for cooperative relationships where state and federal management authorities overlap. In situations where federal and state interpretations and perspectives differ significantly, the ANILCA Program ensures those issues are appropriately raised with leadership in state government so that all efforts to successfully resolve issues can be explored. Without the ANILCA Program's and CACFA's active participation on ANILCA issues over the past 35 years, the hard fought compromises and commitments in ANILCA would have long been ignored and forgotten.

1. National Park Service - Annual Review of Proposed Compendiums
 - Developed in cooperation with the ANILCA Program, this Alaska-specific annual public review process of proposed Compendiums applies to all Alaska Park Units. The review reflects the intent in ANILCA to obtain input from Alaskans who are most directly affected by restrictions and closures through an open, public process.
2. National Park Service - Inholder Access
 - ANILCA grants a right of access, including for economic and other purposes, to state and private property inholdings located within conservation system units. NPS park units, especially Wrangell-St. Elias National Park and Preserve, have a significant number of inholdings within their boundaries. The NPS worked with the ANILCA Program and affected community members to develop the “User’s Guide to Accessing Inholdings in a National Park Service Area in Alaska,” which identified reasonable guidance for granting and documenting inholder access.
 - CACFA worked with Denali National Park Superintendents for almost two decades to issue an inholder a permit to conduct ANILCA Title XI pre-application work for mining access.
3. Fish & Wildlife Service - Inholder Access to Seismically Survey Non-Federal Subsurface Estate within the Kenai National Wildlife Refuge
 - A leaseholder of significant subsurface resources within and adjacent to the boundaries of the Kenai Refuge was being challenged on its ability to adequately survey those resources using advanced, low-impact seismic equipment. U.S. Fish & Wildlife Service and Refuge staff were unwilling to recognize the leaseholder’s requests as inholder access guaranteed under ANILCA Title XI. The ANILCA Program and DNR developed briefings and advised on the Environmental Assessment to ensure the leaseholder’s access rights were appropriately recognized and granted. The Refuge authorized the seismic survey under a multi-year permit with mutually acceptable terms and conditions.
4. Forest Service - State Administrative Activities in National Forest Wilderness
 - State administrative activities that are conducted in designated Wilderness are subject to a federal decision process called the “Minimum Requirements Decision Guide.” The Forest Service and the ANILCA Program cooperatively developed a document that clarified federal and state roles and responsibilities, communication protocols, and documentation requirements to ensure state management activities, primarily those associated with fish and wildlife management, could proceed efficiently and expeditiously.
5. Forest Service - Access and Travel Management - Subsistence Access Guide
 - The Forest Service’s national travel management rule was not in compliance with provisions of ANILCA and the Forest Service did not have regulations implementing ANILCA’s subsistence access provisions. The ANILCA Program worked with the Alaska Region to develop regional guidance to ensure the mandatory District Access and Travel Management Plans were completed in compliance with ANILCA.
6. ANILCA Title XI Process for Transportation and Utility Systems
 - The ANILCA Program and ADOT are working with the Federal Aviation Administration to ensure the ANILCA Title XI process is appropriately followed for the proposed Angoon Airport Project to ensure the proposed action, which is located within designated Wilderness, remains a viable alternative.

- The ANILCA Program provided input to the Federal Aviation Administration on the Kodiak Airport Project to ensure the subsistence provisions in Title VIII of ANILCA were appropriately recognized.
 - The ANILCA Program is providing input to ADOT and the Federal Highways Administration on the Title XI process for the Sterling Highway Reroute to ensure that a proposed route through designated Wilderness remains a viable alternative.
7. BLM - Delta Wild and Scenic River Management Plan
- The ANILCA Program filed a Protest and an Appeal of the Delta Wild and Scenic River Management Plan because it did not appropriately recognize ANILCA access provisions that applied to Wild and Scenic Rivers in Alaska. As a result, several of the proposed access restrictions were removed from the plan and BLM acknowledged in the final response document that it would implement restrictions in accordance with ANILCA regulations.
8. BLM - Eastern Interior Resource Management Plan
- The ANILCA Program commented on similar access issues in the Eastern Interior draft management plan which were raised in the context of the Delta Wild and Scenic River Management Plan. The ANILCA Program is currently working with BLM on ways to resolve ANILCA access issues for the Eastern Interior plan as well as in two new planning processes that are underway for Central Yukon and the Bering Sea-Western Interior management areas.
 - CACFA staff advised BLM that it was not correctly interpreting ANILCA's allowance for mineral entry in the White Mountains National Recreation Area. BLM acknowledged the error and addressed the oversight through a Supplemental Environmental Impact Statement.
9. Forest Service - White Sulphur Springs Bathhouse
- The Forest Service initially proposed to relocate a public use cabin and reconstruct a bathhouse on the Sitka District. The original decision was to relocate cabin but remove the bathhouse because of its location in designated Wilderness and a determination that it was not necessary as a public safety shelter. CACFA staff worked with local users and helped gather affidavits that demonstrated the bathhouse's use as a shelter for public safety, which resulted in a successful appeal. The bathhouse was rebuilt in 2013.
10. Fish & Wildlife Service - Arctic National Wildlife Refuge "Supplemental" Permit Instructions
- Refuge staff were requiring applicants for certain special use permits to provide information beyond what was approved by the federal Office of Management and Budget - in some instances, in direct opposition to and in excess of what the approved instructions normally required. CACFA contacted the Refuge Manager and the supplemental instructions were dropped.
11. BLM - Wild Lands Policy
- In December 2010, the Secretary of Interior announced a new policy for BLM that established a quasi-wilderness administrative designation called "Wild Lands." The ANILCA Program worked with the Governor's Office on correspondence to oppose the new policy, which was in conflict with provisions in ANILCA that applied to congressionally designated Wilderness in Alaska. Congress effectively blocked BLM from designating "Wild Lands" and BLM issued revised implementation direction, though they did not rescind the policy. The ANILCA Program and CACFA are monitoring BLM's three on-going planning efforts (Eastern Interior, Central Yukon and Bering Sea-Western Interior) to ensure the national policy is implemented in Alaska consistent with Congressional intent.

12. Fish & Wildlife Service - Wilderness and Wild and Scenic River Reviews

- The ANILCA Program successfully kept Wilderness and Wild and Scenic River reviews and recommendations out of six revised Comprehensive Conservation Plans (CCPs) for Alaska refuges. In 2010, however, the U.S. Fish & Wildlife Service revised its Alaska policy on conducting those reviews, and it did so without input from the State, Native interests, or public review. Under this revised policy, the Service was able to recommend that Congress designate four new Wild and Scenic Rivers and 12+ million acres of Wilderness, including the oil- and gas-rich coastal plain, in its final revised CCP for the Arctic Refuge. The ANILCA Program's comments on that plan continue to emphasize significant concerns about the legality of any Wilderness and Wild and Scenic River reviews.

13. BLM - Gulkana Wild and Scenic River Management Plan

- The ANILCA Program worked cooperatively with BLM to complete a river management plan for the Gulkana River, a Wild and Scenic River designated by ANILCA. Agreements with DNR resulted in a long-term monitoring project to understand public use and impacts to the river, which allows consideration of public use limitations only if use levels and resource impacts are documented and exceeded for an extended period of time.

14. Fish & Wildlife Service - Selawik Refuge Access Study

- The ANILCA Program worked cooperatively with the U.S. Fish & Wildlife Service to develop a study to identify historical motorized methods of access and use on the Selawik Refuge, including interviewing elders in local communities who were familiar with methods of access generally occurring when ANILCA passed. The study's primary purpose was to ensure local rural residents could continue to use methods of access allowed in ANILCA for subsistence.

15. BLM - Viable Opportunities for Trapping Cabins

- Per BLM policy, commercial cabins may be authorized on BLM lands in Alaska. However, the national standards for establishing a "commercial use," when applied to trapping activities in Alaska, was unreasonable and trappers were not able to qualify for a cabin permit or lease. After over a decade of dialogue, CACFA and ADF&G were able to work with BLM leadership and adjudicators to create a more appropriate standard for "commercial" cabins in Alaska, enabling trappers to finally obtain a permit or lease for winter-use of cabins for trapping.