



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Citizens' Advisory Commission
on Federal Areas**

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June 24, 2016

Dr. Herbert Frost, Regional Director
National Park Service – Alaska Region
240 West 5th Avenue
Anchorage, Alaska 99501

Director Frost,

At its Juneau meeting on Saturday, January 30, the Citizens' Advisory Commission on Federal Areas unanimously affirmed the following recommendation:

On consideration of numerous actions and inactions by the National Park Service, including but not limited to inadequate consultation and the preemption of state management authorities with respect to the statewide management of fish and wildlife, the Citizens' Advisory Commission on Federal Areas recommends the Alaska Department of Fish and Game withdraw from its 1982 Master Memorandum of Understanding (MMOU) with the National Park Service and any associated programs, policies or procedures be revisited consistent with that withdrawal.

In the view of the Commission, the National Park Service has not complied with its obligations under the MMOU. For example, the Service recently promulgated regulations which automatically preempt state management authorities for fish and wildlife, which evidences a lack of compliance with the requirement that the Service will recognize the Department of Fish and Game as having the primary responsibility to manage fish and wildlife on all lands within Alaska. Additionally, by requiring state officials to obtain permits to conduct research on state lands within the external boundaries of a park or preserve, the Service has not complied with its obligation to recognize the right of the Department to conduct routine management activities.

Moreover, in a February 9 hearing before the Senate Environment and Public Works Committee, a key witness testified that their interpretation of the 1982 MMOU represents a positive affirmation of the federal land manager's ability to unilaterally preempt state management authorities. If that is an accurate assessment of the Service's interpretation, then the MMOU is at best an erroneous representation of the relationship between the Service and the Department and, at worst, a usurpation of or undue interference with the Department's constitutional mandates.

Before the Commission implements its recommendation that the Department withdraw from the MMOU we would like to ask the Service to provide us with its position on the necessity of retaining the MMOU. Does the Service believe the MMOU supports its authority to preempt state management and to require the State obtain permits to conduct activities on state-owned lands and waters within park units in Alaska? Would there be value in the Department and the Service revisiting the MMOU and clarifying what key terms such as "consultation" mean and

how those terms would be interpreted and implemented in a meaningful manner? Are there other developments that have occurred over time that need to be revisited so that the previously close working relationship between the Department and the Service can be revitalized, and the interests of the public in ensuring guarantees under the law can continue into the future, while satisfying the respective sovereign, constitutional and statutory mandates of these two agencies?

The Commission is open and available to both you and your staff to discuss or elaborate on this request in greater detail at a convenient time. Feedback on the Commission's understanding of the Department's relationship with the National Park Service pursuant to the MMOU, its intent and effect, is especially welcome. Thank you for your consideration.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Sara Taylor', with a long horizontal flourish extending to the right.

Sara Taylor
Executive Director

cc: The Honorable Bill Walker, Governor, State of Alaska
The Honorable Byron Mallott, Lieutenant Governor, State of Alaska
Marty Rutherford, Acting Commissioner, Alaska Department of Natural Resources
Sam Cotten, Commissioner, Alaska Department of Fish and Game