Appendix K

Master Memorandum of Understanding Between ADF&G and BLM

MASTER MEMORANDUM OF UNDERSTANDING

BETWEEN

THE ALASKA DEPARTMENT OF FISH AND GAME
Juneau, Alaska

AND

THE U.S. BUREAU OF LAND MANAGEMENT

DEPARTMENT OF THE INTERIOR

Anchorage, Alaska

This Master Memorandum of Understanding between the State of Alaska, Department of Fish and Game, hereinafter referred to as the Department, and the U.S. Department of the Interior, Bureau of Land Management, hereinafter referred to as the Bureau, reflects the general policy guidelines within which the two agencies agree to operate.

WHEREAS, the Department, under the Constitution, laws, and regulations of the State of Alaska, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State on the sustained yield principle, subject to preferences among beneficial uses; and

WHEREAS, the Bureau, by authority of the Constitution, Laws of Congress, executive orders, and regulations of the U.S. Department of Interior has a mandated responsibility for the management of Bureau lands, and the conservation of fish and wildlife resources on these lands; and

WHEREAS, the Department and the Bureau share a mutual concern for fish and wildlife conservation, management, and protection programs and desire to develop and maintain a cooperative relationship which will be in the best interests of both parties, the concerned fish and wildlife resources and their habitats, and produce the greatest public benefit; and

WHEREAS, it has been recognized in the Alaska National Interest Lands Conservation Act (ANILCA) and subsequent implementing Federal regulations that the resources and uses of Bureau lands in Alaska are substantially different than those of similar lands in other states; and

WHEREAS, the U.S. Congress and the Alaska Legislature have enacted laws to protect and provide the opportunity for continued subsistence use of Alaska's fish and wildlife resources by rural residents; and

WHEREAS, the Department and the Bureau recognize the increasing need to coordinate resource planning, policy development, and program implementation;

NOW, THEREFORE, the parties hereto do hereby agree as follows:

THE DEPARTMENT OF FISH AND GAME AGREES:

1. To recognize the Bureau as the Federal agency responsible for multiple-use management of Bureau lands including wildlife habitat in accordance with the Federal Land Policy and Management Act, ANILCA, and other applicable law.

2. To regulate and manage use of fish and wildlife populations on Bureau lands in such a way as to maintain or improve the quality of fish and wildlife habitat and its productivity.

3. To consult with the Bureau in a timely manner and comply with applicable Federal laws and regulations before embarking on enhancement or construction activities on or which would affect Bureau lands.

4. To act as the primary agency responsible for management of all uses of fish and wildlife on State and Bureau lands, pursuant to applicable State and Federal laws.

5. To notify the Bureau of any animal damage control activities on Bureau lands; and to obtain Bureau approval for the use of pesticides, herbicides, or other toxic chemical agents in the course of animal damage control.

6. To provide all maintenance on facilities, structures, or other construction owned by the Department on Bureau lands; and to hold the Bureau harmless for liability claims resulting from these constructions, facilities, and/or structures.

THE BUREAU OF LAND MANAGEMENT AGREES:

1. To recognize the Department as the primary agency responsible for management of use and conservation of fish and wildlife resources on Bureau lands.

2. To recognize the right of the Department to enter onto Bureau lands at any time to conduct routine management activities which do not involve construction, disturbance to the land, or alterations of ecosystems.

3. To recognize the Department as the primary agency responsible for policy development and management direction relating to uses of fish and wildlife resources on State and Bureau lands, pursuant to applicable State and Federal laws.

4. To incorporate the Department's fish and wildlife management objectives and guidelines in Bureau land use plans unless such

provisions are not consistent with multiple use management principles established by FLPMA, ANILCA, and applicable Federal law.

5. To adopt the State's regulations to the maximum extent allowed by Federal law when developing new or modifying existing Federal regulations governing or affecting the taking of fish and wildlife on Bureau lands in Alaska.

6. To notify the Department of any portion of the Department's fish and wildlife management objectives, guidelines, or State regulations that the Bureau determines to be incompatible with the purposes for which Bureau lands are managed.

7. To manage Bureau lands so as to conserve and enhance fish and wildlife populations.

8. To inform the Department of proposed development activities on Bureau lands which may affect fish and wildlife resources, subsistence and other uses, and to provide or require appropriate mitigation where feasible.

9. To permit, under appropriate agreement or authorization, the erection and maintenance of facilities or structures needed to further fish and wildlife management activities of the Department on Bureau lands, provided their intended use is not in conflict with Bureau policy and land-use plans.

10. To recognize that the taking of fish and wildlife by hunting, trapping, or fishing on Bureau lands in Alaska is authorized in accordance with applicable State and Federal law unless State regulations are found to be incompatible with Bureau regulations.

THE DEPARTMENT OF FISH AND GAME AND BUREAU OF LAND MANAGEMENT MUTUALLY AGREE:

1. To coordinate planning for management of fish and wildlife resources on Bureau lands and adjacent lands having common fish and wildlife resources so that conflicts arising from differing legal mandates, objectives, and policies either do not arise or are minimized.

2. To cooperate in planning, enhancement, or development activities on Bureau lands which require permits, environmental assessments, compatibility assessments, or similar regulatory documents by responding in a timely manner with requirements, time tables, and any other necessary input.

3. To consult with each other when developing or implementing policy, legislation, and regulations which affect the attainment of wildlife resource management goals and objectives of the other agency.

4. To cooperate in the management of fish and wildlife resources and habitat (including planning, regulation, enforcement, protection, restoration, research, inventories, and habitat enhancement) on Bureau lands and adjacent lands having common fish and wildlife resources consistent with the species and habitat management plans and objectives of both agencies.

5. To develop specific plans for cooperative development and joint management of habitat areas determined to be essential to the continued productivity or existence of fish and wildlife populations.

6. To consult with the Department prior to entering into any cooperative land management agreements which could affect fish and wildlife resources.

7. To cooperate in the development of fire management plans which may include establishment of priorities for the control of wildfires, or use of prescribed fires.

8. To make facilities, equipment and assistance mutually available on request for use in fish and wildlife work and habitat improvement consistent with Bureau and Department requirements.

9. Neither to make nor sanction any introduction or transplant of any fish or wildlife species on or affecting Bureau lands without first consulting with the other party and complying with applicable Federal and State laws and regulations.

10. To provide to each other upon request fish and wildlife data including subsistence and other uses, information, and recommendations for consideration in the formulation of policies, plans and management programs regarding fish and wildlife resources.

11. To cooperate in the preparation of announcements and publications and the dissemination of fish and wildlife information; any material obtained from cooperative studies may be published or reproduced with credit given to the agencies or organizations responsible for its acquisition or development. Any news release relating specifically to cooperative programs will be made only by mutual consent of the agencies.

12. To cooperate and coordinate in the issuance of permits to persons, industry, or government agencies for activities affecting designated anadromous fish streams on Bureau lands, in accordance with Alaska Statute 16.05.870 and to cooperate in the formulation of comments and recommendations on permits issued by other governmental agencies in accordance with the Fish and Wildlife Coordination Act, Clean Water Act and other applicable laws.

13. To resolve, at field office levels, all disagreements pertaining to the cooperative work of the two agencies which arise in the field and to refer all matters of disagreement that cannot be resolved at equivalent field levels to the State Director and to the Commissioner for resolution before either agency expresses its position in public.

14. To meet annually at the Director/Commissioner level and discuss matters relating to the management of fish and wildlife resources and their habitats on, or affected by, respective programs; to provide for other meetings at various administrative levels for discussion of law enforcement, educational programs, cooperative studies, research, fish and wildlife surveys, habitat development, hunting, fishing, trapping seasons, and such other matters as may be relevant to fish and wildlife populations and their habitats.

15. To develop such supplemental memoranda of understanding and cooperative agreements between the Bureau and the Department as may be required to implement the policies contained herein.

16. That this Master Memorandum is subject to the laws of the State of Alaska and the United States. Nothing herein is intended to conflict with current directives, laws or regulations of the signatory agencies. If conflicts arise or can be foreseen, this Memorandum will be amended or a new Memorandum of Understanding will be developed.

17. That this Master Memorandum of Understanding is subject to the availability of appropriated State and Federal funds.

18. That this Master Memorandum of Understanding establishes procedural guidelines by which the parties shall cooperate, but does not create legally enforceable obligations or rights.

19. That this Master Memorandum of Understanding supersedes all previous Master Memoranda of Understanding between the Bureau and Department and all supplements and amendments thereto.

20. That this Master Memorandum of Understanding shall become effective when signed by the Commissioner of the Alaska Department of Fish and Game and the State Director of the Bureau of Land Management and shall continue in force until terminated by either party by providing notice in writing 120 days in advance of the intended date of termination.

21. That amendments to this Master Memorandum of Understanding may be proposed by either party and shall become effective upon approval by both parties.

STATE OF ALASKA

Department of Fish and Game

By Don W. Collinsworth

Don W. Collinsworth

Commissioner

Date 6-28-83

U.S. DEPARTMENT OF THE INTERIOR

Bureau of Land Management

By

Curtis V. McVee

Director

Date 8/3/83

Supplement to the
MASTER MEMORANDUM OF UNDERSTANDING
between
THE ALASKA DEPARTMENT OF FISH AND GAME
AND
THE BUREAU OF LAND MANAGEMENT
U.S. DEPARTMENT OF THE INTERIOR, ALASKA

SIKES ACT IMPLEMENTATION

This supplemental memorandum of understanding is pursuant to the Master Memorandum of Understanding between the Alaska Department of Fish and Game (ADF&G) and the Bureau of Land Management (BLM), Alaska, dated AUG 3 1983. Public Law 93-452, of October 18, 1974, 16 U.S.C. 670a et seq., commonly referred to as the Sikes Act, provides the broad authority to: 1) Plan and carry out fish and wildlife conservation and habitat rehabilitation programs on Bureau lands consistent with overall land use plans; 2) Protect significant habitat for threatened and endangered species; and 3) Enforce regulations to control off road vehicle (ORV) traffic or other public use of lands subject to conservation and rehabilitation programs conducted under the Act.

The Act in no way diminishes the authority of the State of Alaska to manage resident fish and wildlife populations.

It is the purpose and intent of this supplement to provide a working relationship and procedure for implementation of the Sikes Act on Bureau lands in Alaska between ADF&G and BLM.

Terms used in this supplement are defined as follows:

1) Conservation and rehabilitation program - Includes programs necessary to protect, conserve, and enhance wildlife resources to the maximum extent practicable on Bureau lands consistent with any overall land-use and management plans for the lands involved.

2) Habitat Management Plan (HMP) - BLM's intensive, detailed action plan for wildlife management on a specific geographic area of biological interest on Bureau lands. The HMP is a cooperative plan with the State Wildlife agency and is based on current public input. The HMP shall be the implementing document for the Sikes Act.

3) Bureau Lands - These are public lands under the jurisdiction of the Bureau of Land Management.

THEREFORE, BE IT RESOLVED THAT FOR THE PURPOSE OF IMPLEMENTING P.L. 93-452, ADF&G and BLM mutually agree to the following:

1) HMPs will be implemented for areas where land-use plans have been prepared, unless otherwise authorized by the State Director, BLM.

2) HMPs will be based on priorities within Alaska, as mutually selected by the Commissioner, ADF&G, and the State Director, BLM. Guidelines for establishing HMP priorities shall be based on the following:

   a) The basic resource values which may be enhanced and benefits produced by implementation of active management programs and/or regulations.

   b) The identification, through the BLM or ADF&G planning systems, of areas having a need for intensive wildlife management.

   c) The potential for wildlife habitat to be altered by land use activities such as energy and industrial development, urban expansion, road construction, and ORV traffic.

   d) The need to protect important and/or critical fish and wildlife habitat such as salmon spawning areas, moose winter range, or the habitats of endangered or threatened species.

3) Protection will be afforded to those fish and wildlife species designated as threatened or endangered by the Alaska Department of Fish and Game or by the Secretary of the Interior pursuant to Section 4 of the Endangered Species Act of 1973.

4) HMPs will specify fish and wildlife habitat improvements or modifications needed.

5) Rehabilitation of Bureau lands will be undertaken where necessary to support HMP recommendations and consistent with the availability of funds for that purpose.

6) Hunting, fishing, and trapping of resident fish and wildlife on HMP areas will be in accordance with applicable laws and regulations of the State of Alaska.

7) It is herein recognized that the Secretary of the Interior has the authority to promulgate regulations to control the public use of Bureau lands consistent with the HMP, including, but not limited to ORV use. BLM and ADF&G will coordinate federal land use and state hunting, fishing and trapping regulations during Sikes HMP development.

8) Funds authorized and appropriated for HMP implementation on Bureau lands in Alaska shall include, but not be limited to all activities associated with scientific resource management, such as the following: protection, research, census, law enforcement, habitat management, propagation, live trapping, transplantation, and regulated taking. Funds may be allocated for hiring of personnel, contractual services, physical habitat improvement projects, and grants to colleges. It shall be the joint responsibility of the Commissioner, ADF&G, and the State Director, BLM, to define areas and projects for priority funding under the Sikes Act. It shall be the responsibility of the State Director, BLM to secure funding through BLM's program funding procedures. Final disbursement of Sikes Act Funds shall be made through the State Director, BLM, after consultation with the Commissioner, ADF&G.

9) Plans and programs initiated on Bureau lands under the Sikes Act in Alaska shall not conflict with comprehensive plans required of the State under any Federal or State Acts.

10) BLM and ADF&G will discuss the following Sikes Act items during the course of their annual coordination meeting:

    a) A progress report on the current status of HMP implementation.

    b) The review of wildlife values produced under the existing conservation and rehabilitation programs.

c) The priorities for HMP implementation.

d) The program and budget recommendations for the upcoming and succeeding fiscal years.

This supplement shall become effective on the date when last signed and shall remain in force until terminated by mutual agreement, by amendment or abolishment of the Act by Congress, or by either party upon thirty days notice in writing to the other party of its intention to terminate upon a date indicated.

STATE OF ALASKA
Department of Fish and Game

By Don W. Collinsworth
Don W. Collinsworth
Commissioner

Date 6-28-83

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management

By Curtis V. McVee
Curtis V. McVee
State Director

Date 8/3/83