Alaska Wetlands Initiative sharp criticism

A draft report outlining how the Clinton administration proposes to deal with Alaska in its federal wetlands policy has drawn sharp criticism from across the 49th state.

The report, released March 28, was the product of a five-month process to assess whether Alaska should be provided greater flexibility in federal wetlands regulations. The process was focused on a diverse group of Alaska stakeholders, including RDC, which participated in a series of meetings aimed at examining recommendations for making the federal wetlands program more responsive to Alaska's unique circumstances. Stakeholders included representatives from local government, the State, commercial and sport fishing, tourism, oil, Native corporations and the development and environmental communities.

Overall, Alaska stakeholders were disappointed with the draft report, saying if the administration was seeking to avoid a legislative battle on the issue, the effort was a failure.

"While we appreciate the opportunity to express our views and make recommendations that would provide a meaningful measure of regulatory relief, we have to wonder at this point if the process was a waste of time and resources," said RDC Executive Director Becky Gay.

Dr. Paul Rusanowski of the State of Alaska called the draft a significant step backwards from an earlier paper and subsequent discussions at stakeholder meetings.

An aide to Senator Stevens judged the Environmental Protection Agency initiative vastly insufficient, noting that legislative proposals to address the state's problems are likely to come up during Senate debate on the Clean Water Act reauthorization.

The administration maintains that both current law and the new wetlands initiative provide adequate flexibility for Alaska.

The stakeholders complained that many key issues and proposals discussed at roundtable meetings in November and December have not been addressed in the report.

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Double standard for National Wildlife Federation

The Alaska Wetlands Initiative's nationwide effort is finally over. As reported before, the process was very rigorous and time-consuming, involving hours of work, attending day-long meetings, responding to comments, and generally working with the regulators to tailor wetlands policy to Alaska, as directed by President Clinton in his national wetlands policy. The final product will be written by others in the Administration, supposedly incorporating the results of the Alaska process. In retrospect, the process had a big flaw. Instead of signing a formal document agreeing to the outcome, or at least the process, the stakeholders were given rules of conduct to abide by and the group began its good faith effort to work toward solving the wetlands dilemma in Alaska.

The National Wildlife Federation (NWF) was the only Outside group given a position at the table. It took full advantage of the stakeholders' seat, then basically failed to blow up the whole effort with a hysterical national mailing to generate comments from non-Alaskans against President Clinton's so-called giveaway of wetlands.

As if that wasn't enough, NWF ran to Washington and quickly managed to get a "leaked" unofficial copy of the draft report. NWF then kept the report secret, not even giving it to other environmental stakeholders. NWF sent comments directly to EPA on the unofficial document, basically putting EPA in position to violate the Administrative Procedures Act if the comments were considered. Why? We don't know.

Most of the other stakeholders signed a formal protest letter, asking for a full investigation. And EPA carefully reviewed the NWF a stern letter of reprimand for having an unofficial draft (much less trying to comment on it) and refused to consider the NWF comments. In order to salvage the work and to level the playing field, EPA subsequently released a different draft to all stakeholders and gave two weeks for comments ending April 11. Now we wait to see what happens.

I tried to get the press interested in the fact that the NWF had obtained a leaked document in order to abort, or at least disturb, the process which the White House gave to only one state -- Alaska. In both cases, the Anchorage Daily News (ADN) had front-page stories on the subject. President Clinton's 60 days of determining that the request for authorization (85 percent of which are authorized under general permits) within 60 days of determining that the request for authorization is complete.

The second lesson we learned is that it is misleading to minimize problems with the permitting program by saying that only five percent of permits are denied when well over half of all individual permit applications are withdrawn. The effective denial rate is obviously much higher than the formal denial rate, which demonstrates the truth of what every regulator and every applicant knows instinctively: delay is the most valuable commodity in the processing of wetland permits. All of the NWF comments were primarily concerned with the fact that it was not feasible to generate comments from non-Alaskans on such an intimate policy.

The third lesson concerns the assertions about 290,000 acres of annual wetlands loss. The figures presented in Appendix A demonstrate that this number is seriously outdated and no longer reliable; simply put, it is too high. Moreover, the Section 404 program achieves its goals of providing for the assessment, mitigation, and restoration of wetlands impacts and appears to require more by way of compensation than it authorizes as impacts. Aside from these permitting and acreage trends, the study revealed some interesting individual cases. The largest, and hence most troubling, went directly to the U.S. Fish and Wildlife Service to clear over 800 acres of pocosin wetland forest.

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Guest Opinion
by Virginia S. Albrecht and Bernard N. Goode, PE

Wetland regulation in the real world

Wetland policy discussions in recent years have resounded with frequent incantations of two important "statistics"—first, that the nation is losing 290,000 acres of wetlands annually, and second, that only five percent of federal wetlands permit applications are denied. The effective denial rate is obviously much higher than the formal denial rate, which demonstrates the truth of what every regulator and every applicant knows instinctively: delay is the moral equivalent of denial.

Editor's Note: The following is the Executive Summary of the report, "Wetland Regulation in the Real World," by Virginia S. Albrecht and Bernard Goode. This portion of the report was reprinted with permission from the authors.

Wetlands policy discussions in recent years have resounded with frequent incantations of two important "statistics"—first, that the nation is losing 290,000 acres of wetlands annually, and second, that only five percent of federal wetlands permit applications are denied. The effective denial rate is obviously much higher than the formal denial rate, which demonstrates the truth of what every regulator and every applicant knows instinctively: delay is the moral equivalent of denial.

We can learn a great deal from history, but sometimes it is discouraging to find how little we have progressed. The other day, after reading about the Forest Service's unilateral cancellation of Alaska Pulp Corporation's (APC) long-term timber supply contract, I found myself in ond of my all-time Alaskan history references, "The Copper Spike," by Lone E. Janson.

Around the turn of the Century, the discovery of copper at Kennicott and the race to develop railroads to transport the rich ore spurred exploration for coal as fuel for the locomotives, steamships, and the copper ore.

Coal was found in abundance, but Congress did not pass the laws necessary to open the area for entry until 1904. In the next two years, 160 carbon claims were filed on the coal field.

But then came the beginning of large land and resource withdrawals in a state that is now home to most of the nation's national park and refuge lands.

In November 1906, President Theodore Roosevelt unnecessarily withdrew all coal lands from entry by Executive Order. As if that wasn't enough confusion for struggling Alaskans, Gifford Pinchot, the first forest engineer and proponent of "sustainability," persuaded President Roosevelt to create the Chugach National Forest -- essentially top-filling the Bering River coal fields and all the legally-filed claims. This move effectively locked up the existing claims.

Meanwhile, the Copper River and Northwestern Railroad (CR&NW) was building coal from imported British Columbia. While Alaskan coal was tied up by Gifford Pinchot's successors in the Forest Service, the Copper Spike was driven at Kennicott on March 29, 1911. Coal for the CR&NW locomotives continued to be imported from Canada by steamship. Cordovans couldn't stand the irony of the Bering River coal fields "just down the road."

On May 3, 1911, 300 Cordova residents staged the Canadian coal into Prince William Sound. The incident put Cordova on the map, but complaining residents treated by Washington went unnoticed by most Americans who had little sympathy for Alaska's plight.

Despite a lesson in civil disobedience, Gifford Pinchot got his way and the Bering River coal fields have yet to be developed. Shortly after the coal fields were open, the CR&NW announced that its locomotives would be fired by oil and the much anticipated extension to the Yukon River would not be attempted. The cost of importing fuel was too great.

May 3, 1994 is the 83rd anniversary of the "Cordova Coal Party." In all these years, much has changed regarding Washington's heavy hand over Alaska development, its people and economy. Given the recent decision on the Sitka Spruce/Alaska Pulp Technology (AP&T) contract, one has to wonder if there will be a "Sitka/Wrangell Log Party."

APC closed its mill in Sitka last fall after the government retooled the two long-term timber supply contracts in the Tongass and closed additional ar- eas to logging, leaving two-thirds of the timber base off-limits to cutting.

APC's contract was not due to expire until 2011. The company lobbied the Clinton administration to continue the contract while it explored converting the pulp mill to a fiberboard plant. The new environmentally-sound facility would replace many of the jobs lost when the mill closed and would help sustain a major portion of Sitka's tax base. The conversion would also preserve some 900 jobs at the company's Wrangell sawmill and other logging operations.

APC needed time to perform the necessary feasibility studies for the new plant. It argued that timber sales should continue during this interim period so that jobs would not be jeopardized.

The Forest Service, however, apparently bowed to political pressure and terminated the contract on what many consider flimsy legal grounds, opening the door for an eventual legal challenge that forces taxpayers to pay off the company.

The conversion project is now jeopardized, as well as the Wrangell sawmill and hundreds of jobs. What bank would finance the high cost of state-of-the-art manufacturing facility without a reliable long-term supply of raw material?

Will Sitka and Wrangell need to import logs from Canada like Cordova importers?

Opponents of the two long-term contracts in the forest say they want "sustainable" logging and value-added manufacturing. But by pushing to have APC's contract cancelled and to put further restrictions on a sharply curtailed logging industry, they will wipe out the region's highest-paying and best year-round industrial jobs.

Soon the big guns may turn on the Ketchikan contract and the region may have no choice but to rely on seasonal fishing and tourism. Those who want good, well-paying jobs will have to leave or apply to the government.

One has to wonder if Gifford Pinchot may still have some descendants in Washington influencing Alaska's future.

83rd Anniversary of Cordova Coal Party approaching

With cancellation of timber pact, will history repeat itself in Sitka?
As a young state, if Alaska is to achieve its governing right to population and economic growth in the pursuit of its own destiny, the needs of Alaskans must be considered in the Administration’s equation for wetlands policy. This includes the viable and realistic opportunity for resource development in oil and gas, timber, mining, fishing and tourism.

-Karen Cowart, Executive Director
Alaska Visitors Association

recognizing that avoidance is almost impossible in a state where nearly all the remaining land for community or resource development is designated as jurisdictional wetlands,” said Gay.

Because of the abundance of wetlands in Alaska, compensatory mitigation is frequently unavailable on- or off-site and makes little biological/economic sense off-site. Gay said compensatory mitigation should only be required to offset high-value, scarros wetlands being used.

The EPA rejected arguments that compensatory mitigation — restoration and creation of wetlands to offset wetlands losses — should not be required in Alaska because of a lack of mitigation sites and the limited access in restoring certain wetland types in the state. EPA instead proposed that the federal government work with the state to establish a mitigation banking pilot project and develop mitigation strategies for past, current and future oil and gas development on the North Slope.

RDC does not endorse mitigation banking, but if the concept is applied to Alaska, it should be tailored to the state’s unique circumstances. Gay cited in its comments, RDC said mitigation banking principles must be changed to accommodate the abundance of wetlands in Alaska. Moreover, any banking plan for the state needs to credit wetlands already protected in refuges, parks and the conviction units.

RDC said off-site and interstate mitigation should not be mandatory, and occur only if the permit applicants volunteer to do so.

While RDC refused to endorse the administration’s draft initiative, it did support some aspects of the draft, including Alternative Permit Processes (APPs). The figure cited in the draft initiative excluded from the original wetlands base in the bowl the military bases, military property and the Anchorage Coastal Wildlife Refuge. In addition, Municipal wetlands in state parks and BLM lands were not included.

According to the U.S. Fish and Wildlife Service, the Municipality of Anchorage contains 227,680 acres of fresh water and tidewater wetlands. Less than 15 percent have been filled.

In the Anchorage bowl itself, there are at least 50,000 acres of wetlands remaining.

According to the Anchorage Wetlands Management Plan, which classifies the Anchorage peninsula, 8,592 acres of wetlands are designated as “conservation,” 4,732 acres are designated as “preservation,” and 1,066 “conservation” and “preservation” acres were designated as “conservation.”

The EPA added that the necessary data exist to enable potential developers to identify specific wetlands in a timely fashion.

Gay and others, however, charged that the draft initiative misrepresented wetlands data, such as estimates that the Anchorage bowl has lost over 50 percent of its wetlands to development.

Even though the Anchorage mitigation banking pilot project was proposed during an earlier stakeholders meeting, the draft initiative still indicated that Anchorage has lost its half wetlands, a claim often made by environmental groups.

The report cited no source for its estimate on Anchorage wetland losses.

The Anchorpore bowl has lost far less than half its wetlands. The figure cited in the draft initiative excluded from the original wetlands base in the bowl those wetlands in municipal parks, military property and the Anchorage Coastal Wildlife Refuge. In addition, Municipal wetlands in state parks and BLM lands were not included.

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