

# Report Highlights

## Why DLA Performed This Audit

The purpose of this audit was to determine if the commission has ably met its statutory mandate as established in AS 41.37.

## What DLA Recommends

1. The commission's executive director should strengthen procedures to ensure public notice requirements are met.
2. The commission's executive director should implement procedures to ensure commission meeting minutes are recorded and transmitted.

# A Performance Audit of the Department of Natural Resources, Citizens' Advisory Commission on Federal Areas

May 15, 2015

**Audit Control Number 10-30079-15**

## REPORT CONCLUSIONS

Overall, the audit concluded that the Citizens' Advisory Commission on Federal Areas (commission) had met its statutory mandates and objectives by monitoring management plans for federal lands within Alaska and providing comments to decision makers concerning federal land management plans.

The commission has operated in the public's interest by reviewing federal land management plans for consistency with current laws and holding hearings on the effect of federal regulations and decisions within the State of Alaska. Furthermore, on behalf of Alaska citizens, the commission provides written comments to federal organizations concerning federal land management plans within the state. The commission submitted 62 comment letters during the audit period. Comment letters were directed to federal agencies, congressional delegations, state legislators, and the governor.

(Intentionally left blank)

# ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347  
legaudit@akleg.gov

August 3, 2015

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, we have reviewed the activities of the Citizens' Advisory Commission on Federal Areas (commission) and the attached report is submitted for your review.

DEPARTMENT OF NATURAL RESOURCES  
CITIZENS' ADVISORY COMMISSION  
ON FEDERAL AREAS

May 15, 2015

Audit Control Number  
10-30079-15

This performance audit evaluates whether the commission has ably met its statutory mandate as established in AS 41.37.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA  
Legislative Auditor

## ABBREVIATIONS

---

AAC	Alaska Administrative Code
ACN	Audit Control Number
ANILCA	Alaska National Interest Lands Conservation Act
AS	Alaska Statute
ASLAG	Alaska State Lands Advisory Group
CACFA	Citizens' Advisory Commission on Federal Areas
CISA	Certified Information Systems Auditor
commission	Citizens' Advisory Commission on Federal Areas
CPA	Certified Public Accountant
DNR	Department of Natural Resources
FY	Fiscal Year
PAAD	Public Access Assertion and Defense
RS	Revised Statute

---

# CONTENTS

---

<b>Report Sections</b>	Organization and Function	1
	Report Conclusions	5
	Findings and Recommendations	7
	Analysis of Public Need	9
	Objectives, Scope, and Methodology	17
<b>Agency Responses</b>	Department of Natural Resources	19
	Citizens' Advisory Commission on Federal Areas	21
	Legislative Auditor's Additional Comments	25
<b>Exhibits</b>	Exhibit 1: Citizens' Advisory Commission on Federal Areas Commissioners as of January 31, 2015	2
	Exhibit 2: Citizens' Advisory Commission on Federal Areas Schedule of Budgeted and Actual Operating Expenditures July 1, 2010, through January 31, 2015	10
	Exhibit 3: Citizens' Advisory Commission on Federal Areas Schedule of Budgeted and Actual Capital Expenditures July 1, 2014, through January 31, 2015	11
	Exhibit 4: Comparison of Citizens' Advisory Commission on Federal Areas, Alaska National Interest Lands Conservation Act Program, and Public Access Assertion and Defense Unit as of January 31, 2015	16

(Intentionally left blank)

---

# ORGANIZATION AND FUNCTION

---

## Citizens' Advisory Commission on Federal Areas

The Citizens' Advisory Commission on Federal Areas (CACFA or commission) was first established in 1981, one year after the passage of the *Alaska National Interest Lands Conservation Act* (ANILCA). It was formed as a temporary advisory agency within the executive branch to communicate views of citizens and state officials regarding implementation of ANILCA's complex rules and regulations. The commission was active until 1999, at which time funding was eliminated.

Alaska Statute 41.37 reestablished CACFA in 2007 to communicate the views of citizens and state officials affected by federal management of federal lands in the state. As an advisory commission, CACFA does not have authority to issue regulations.

Per AS 41.37.220, key commission duties include:

- (a) Considering, researching, and holding hearings on the consistency with federal law and congressional intent on management, operation, planning, development, and additions to federal management areas in the state;
- (b) Considering, researching, and holding hearings on the effect of federal regulations and federal management decisions on the people of the state;
- (c) After consideration of the public policy concerns identified in (a) and (b), making a recommendation on the concerns identified under (a) and (b) to an agency of the state or to an agency of the United States that manages federal land within the state;
- (d) Considering the views, research, and reports of advisory groups it establishes as well as the views, research, and reports of individuals and other groups in the state; and
- (e) Establishing internal procedures for the management of its responsibilities.

The commission consists of 12 members: six appointed by the governor, three by the speaker of the house, and three by the

---

senate president. All members are public appointments except for one each from the House of Representatives and Senate, which are required to be appointed from the elected membership of their respective legislative bodies. Commission members serve without compensation, but are entitled to per diem and travel expenses. Members of the commission are listed in Exhibit 1.

Commission bylaws<sup>1</sup> create an executive subcommittee comprised of four commission members, two of which must be the commission chair and vice chair. The commission, through resolution, created two additional subcommittees. The sealaska subcommittee was enacted and disbanded in 2011 after addressing issues concerning the *Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act*. The outreach subcommittee was enacted June 2014 to educate and inform the Alaskan public on federal land issues, expand the commission's ability to get feedback from Alaskans, and encourage dialogue among state residents on CACFA-related issues.

The commission may employ staff and contract for services related to matters within its authority. Commission staff include an executive director and a part time natural resources

<sup>1</sup>Adopted June 2, 2010.

---

## Exhibit 1

### **Citizens' Advisory Commission on Federal Areas Commissioners as of January 31, 2015**

Representative Wesley Keller, *Chair*  
Appointed by Speaker of the House

Mark Fish, *Vice Chair*  
Appointed by Governor

Rod Arno, *Executive Committee*  
Appointed by Senate President

Charles Lean, *Executive Committee*  
Appointed by Governor

Teresa Hanson  
Appointed by Governor

Kathleen Liska  
Appointed by Governor

Susan Smith  
Appointed by Governor

Frank Woods  
Appointed by Governor

Michael Meekin  
Appointed by Speaker of the House

Ron Somerville  
Appointed by Speaker of the House

Senator John Coghill  
Appointed by Senate President

Warren Olson  
Appointed by Senate President

---

---

specialist II, both of whom report to the commission. CACFA staff is responsible for administrative activities including booking commissioner travel, updating CACFA's website, and public noticing commission meetings. DNR provides administrative support to the commission and its staff, including procurement and fiscal services.

(Intentionally left blank)

---

# REPORT

## CONCLUSIONS

---

In developing conclusions regarding whether the Citizens' Advisory Commission on Federal Areas (CACFA or commission) has ably met its statutory mandates and objectives, its operations were evaluated using the relevant factors set out in AS 44.66.050(c). Under the state sunset law, these factors are to be used to assess whether an agency has demonstrated a public policy need for continuing operations. While CACFA is not up for sunset review until 2021, these factors provide a framework for assessing whether the commission has ably met its statutory requirements.

Overall, the audit concluded that the commission had met its statutory mandates and objectives by monitoring management plans for federal lands within Alaska and providing comments to decision makers concerning federal land management plans. However, the audit identified the need for two operational improvements. The audit recommends improvements in public noticing commission and subcommittee meetings, and posting commission meeting minutes. (See Recommendations 1 and 2.)

(Intentionally left blank)

---

## FINDINGS AND RECOMMENDATIONS

---

### **Recommendation 1: The commission's executive director should strengthen procedures to ensure public notice requirements are met.**

Alaska Statute 41.37.220(h)<sup>2</sup> requires Citizens' Advisory Commission on Federal Areas (CACFA or commission) meetings, including subcommittee meetings, be noticed on the State's Online Public Notice System and in a newspaper or trade publication at least 30 days before a meeting. Additionally, the commission is required to give time for public comment at all commission and subcommittee meetings.

Commission meetings were not public noticed timely, and many were not published as required. Of the 16 commission meetings held from July 2010 through January 2015:

- Nine were not public noticed timely on the State's Online Public Notice System;
- Fourteen were not published timely in a newspaper or trade publication; and
- Two were not published in a newspaper or trade publication.

Additionally, during the audit period, subcommittee meetings were not public noticed. Subcommittee meetings included 18 executive subcommittee meetings, 26 outreach subcommittee meetings, and three sealaska subcommittee meetings.

The errors were the result of commission staff's lack of knowledge regarding statutory requirements for public noticing subcommittee meetings and competing workload priorities.

By not appropriately public noticing, interested parties may not be aware of commission or subcommittee meetings. In turn, the commission may lose valuable public input, which could reduce its effectiveness in addressing the public's concerns and needs regarding federal management activities within the state.

We recommend the commission's executive director strengthen procedures to ensure public notice requirements are met.

---

<sup>2</sup>Alaska Statute 41.37.220(h) states that all commission hearings are subject to AS 44.62.310. Additionally, commission hearings shall be noticed as provided in AS 44.62.190 and AS 44.62.200, and hearings shall be conducted in accordance with the provisions of AS 44.62.210.

---

**Recommendation 2:  
The commission’s  
executive director should  
implement procedures  
to ensure commission  
meeting minutes are  
recorded and transmitted.**

CACFA staff did not transmit commission meeting minutes for public review in a timely manner. Commission bylaws require commission meeting minutes be transmitted no later than 30 days after a meeting.<sup>3</sup> Minutes for nine of 16 meetings from July 2010 through January 2015 were not transmitted timely; seven of the nine were transmitted seven months after the meeting date.

The delay in transmitting minutes was due to a failure to prioritize the preparation and transmittal of commission meeting minutes. Failure to document and transmit minutes may prevent interested members of the public from learning about commission activities and federal land issues in a timely manner. This inhibits effective communication between the commission and the public.

We recommend the commission’s executive director implement procedures to ensure commission meeting minutes are recorded and transmitted as required in commission bylaws.

---

<sup>3</sup>For purposes of this audit, *transmittal of meeting minutes* is defined as available in written format on CACFA’s website.

---

# ANALYSIS OF PUBLIC NEED

---

The following analysis of Citizens' Advisory Commission on Federal Areas (CACFA or commission) activities relates to relevant public need factors defined in AS 44.66.050(c). This analysis was not intended to be comprehensive, but addresses those areas we were able to cover within the scope of our review. This audit reviewed commission activities from July 2010 through January 2015.

---

## Public Need Factor No. 1

### **Determine the extent to which the board or commission has operated in the public interest.**

The commission has operated in the public's interest by reviewing federal land management plans for consistency with current laws and holding hearings on the effect of federal regulations and decisions within the state. Furthermore, on behalf of Alaska citizens, the commission provides written comments to federal organizations concerning federal land management plans within the State of Alaska. CACFA submitted 62 comment letters during the audit period. Comment letters were directed to federal agencies, congressional delegations, state legislators, and the governor.

CACFA maintains a website that describes its history, mission, and responsibilities. The website includes documentation of upcoming commission meetings, past commission meeting minutes, annual reports to the governor and the legislature, a newsletter detailing current issues related to federal activities within the state, and, as discussed above, copies of formal comment letters regarding proposed changes to federal regulations and federal management plans. While some meeting minutes were missing from the archived documents, evidence of commission activities was generally available to interested citizens. (See Recommendation 2.)

---

**Public Need Factor No. 2**

**Determine the extent to which the operation of the board or commission has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.**

The commission's operations have been enhanced by consistent attendance and adequate funding. CACFA met at least three times per year during the audit period as required by their bylaws. Two additional commission meetings were held to discuss federal overreach within the state. Commissioner attendance was sufficient to ensure a quorum at all scheduled commission meetings.

**Exhibit 2**

---

**Citizens' Advisory Commission on Federal Areas  
Schedule of Budgeted and Actual Operating Expenditures  
July 1, 2010 through January 31, 2015**

(Unaudited)

<b>Budget</b>	<b>FY 11</b>	<b>FY 12</b>	<b>FY 13</b>	<b>FY 14</b>	<b>July 2014- January 2015</b>
Personal Services	\$ 188,600	\$ 199,800	\$ 227,400	\$ 230,900	\$ 230,800
Travel	31,600	31,600	31,600	31,600	31,600
Services	32,400	27,900	18,900	18,900	18,900
Commodities	4,000	4,000	4,000	4,000	4,000
<b>Total Budget</b>	<b>\$ 256,600</b>	<b>\$ 263,300</b>	<b>\$ 281,900</b>	<b>\$ 285,400</b>	<b>\$ 285,300</b>
<b>Expenditures</b>					
Personal Services	\$ 188,633	\$ 213,000	\$ 224,504	\$ 240,808	\$ 107,180
Travel	27,142	28,995	27,137	23,238	7,834
Services	16,112	16,787	6,701	5,427	11,453
Commodities	6,761	3,920	1,428	1,263	367
Transfer Out*				10,000	
<b>Total Expenditures</b>	<b>\$ 238,648</b>	<b>\$ 262,702</b>	<b>\$ 259,770</b>	<b>\$ 280,736</b>	<b>\$ 126,834</b>

\*CACFA funds transferred during FY 14 were funds identified as *lapsing*. The funds were transferred by the Department of Administration, Division of Finance to the catastrophe fund per AS 37.05.289(b).

The commission is funded by the general fund. The financial schedule shown in Exhibit 2 presents CACFA's operating budget and expenditures from July 2010 through January 2015.

During the FY 14 legislative session, CACFA received a \$200,000 capital appropriation to address concerns resulting from federal overreach within the state. Exhibit 3 shows the usage of those funds through January 2015. Planned usage of the remaining funds includes the following:

- Creation of the Alaska State Lands Advisory Group (ASLAG), a volunteer advisory group that will provide recommendations to the commission on enabling a transfer of federal lands to the State of Alaska. The commission has allocated \$10,000 for the initial work of ASLAG for travel and other CACFA preapproved expenditures.
- Increasing the commission's social media and outreach capabilities. The commission is working with a vendor to develop a media advisory plan, which will include a social media outreach strategy for website updates, video concepts, and website training for CACFA staff.
- Scanning and digitizing the CACFA library and archive records to provide a searchable database of current and historic commission documents. CACFA issued a small procurement<sup>4</sup> request for proposal in January 2015, with expected project completion by or before June 30, 2016.

**Exhibit 3**

**Citizens' Advisory Commission  
on Federal Areas  
Schedule of Budgeted and  
Actual Capital Expenditures  
July 1, 2014 through  
January 31, 2015  
(Unaudited)**

<b>Capital Budget</b>	\$	200,000
<b>Expenditures</b>		
Travel	\$	7,145
Services		778
Commodities		827
<b>Total Expenditures</b>	\$	8,750
<b>Remaining Capital Budget</b>		
	\$	191,250

<sup>4</sup>Alaska Statute 36.30.320 defines *small procurements* as those under \$100,000.

---

**Public Need Factor No. 3**

**Determine the extent to which the board or commission has recommended statutory changes that are generally of benefit to the public interest.**

The commission has provided comments on federal management plans and federal regulations. There were no state statutory changes that directly affected the commission, its staff, or its operations from FY 10 through FY 14.

---

**Public Need Factor No. 4**

**Determine the extent to which the board or commission has encouraged public participation in the making of its regulations and decisions.**

Alaska Statute 41.37.220(h) requires the commission to comply with public noticing requirements of the *Administrative Procedure Act* for all commission meetings. These requirements include, in part, notice of proposed action by a governmental body and opportunity for interested persons to present statements at each meeting. Additionally, AS 44.62.310(h)(1) defines a *governmental body* to include members of a subcommittee or other subordinate unit that consists of two or more members. Therefore, subcommittees must also comply with the public notice requirements.

The commission encouraged public participation by allowing time for public comment during regular commission meetings.

Commission meetings from July 2010 through January 2015 were published on the Online Public Notice System; however, the meetings were not always posted timely, and not all meetings were posted in general circulation as required. CACFA subcommittees were also required to public notice meetings and include time for public comment. During the same period, CACFA subcommittee meetings were not public noticed and did not provide time for public comment. (See Recommendation 1.)

---

**Public Need Factor No. 5**

**Determine the efficiency with which public inquiries or complaints regarding the activities of the board or commission filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.**

From July 2010 through January 2015, no CACFA-related complaints were filed with the commission's executive director, Department of Natural Resources' (DNR) Commissioner's Office, the Office of Victims' Rights, or the State's Office of the Ombudsman.

---

**Public Need Factor No. 6**

**Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board or commission in its own activities and the area of activity or interest.**

From July 2010 through January 2015, no CACFA-related complaints were filed with the Department of Administration Division of Personnel and Labor Relations, the United States Equal Employment Opportunity Commission, or the Alaska Commission for Human Rights.

---

**Public Need Factor No. 7**

**Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.**

No statutory, regulatory, or budgetary changes were identified

---

to enable the commission to better serve the public's interest. However, two operational procedures were found in need of improvement. As noted previously, AS 41.37.220(h) requires the commission to public notice commission and subcommittee meetings and to provide an opportunity for interested persons to present statements at each meeting. The audit identified that CACFA staff did not adequately public notice all commission and subcommittee meetings, and commission meeting minutes were not consistently transmitted. (See Recommendations 1 and 2.)

The audit also found subcommittee meeting minutes were not consistently retained. While there is no statutory requirement to retain meeting minutes, the State's open meeting law requires, in part, that actions be taken openly, deliberations be conducted openly, and the people's right to remain informed be protected.<sup>5</sup> Meeting minutes should be retained to help ensure a record of committee actions is available to the public.

---

**Public Need Factor No. 8**

**Determine the extent to which the board or commission has effectively attained its objectives and purposes and the efficiency with which the board or commission has operated.**

Except for the operational deficiencies already discussed, nothing came to our attention to indicate the commission was not meeting its objectives or operating in an inefficient manner from July 2010 through January 2015.

---

**Public Need Factor No. 9**

**Determine the extent to which the board or commission duplicates the activities of another governmental agency or the private sector.**

Two DNR entities, the *Alaska National Interest Lands Conservation Act* (ANILCA) Program and the Public Access Assertion and Defense

---

<sup>5</sup>Alaska Statute 44.62.312 (a)(2) and AS 44.62.312(a)(5).

---

(PAAD) Unit, were identified as having a similar focus as CACFA: to protect the interests of citizens or the State concerning federal land management activities within Alaska. The ANILCA program is the lead coordinating agency for interagency State participation in the implementation of the *ANILCA Act*. The program represents the views of the State government by coordinating input from State departments on ANILCA-related federal regulations and federal management plans within the state. The PAAD Unit is located in the DNR's Mining, Land and Water division. The overarching goal of PAAD is to protect public rights to lands beneath navigable waters and right of way to access lands not reserved for public use. PAAD does not provide comment to federal agencies on management plans, and thus has a narrower scope than CACFA.

Of the three entities, CACFA is the only one that represents the views of Alaskan citizens concerning federal land management plans within the state. CACFA provides opportunity for public input during regular commission meetings. Additionally, CACFA provides outreach to interested parties via newsletters which include updates of upcoming changes to federal management plans.

CACFA's mission, user group, oversight, organization, composition, and core activities differ from ANILCA program and PAAD Unit as described in Exhibit 4.

**Exhibit 4**

**Comparison of Citizens' Advisory Commission on Federal Areas, Alaska National Interest Lands Conservation Act Program, and Public Access Assertion and Defense Unit as of January 31, 2015**

	<b>CACFA</b>	<b>ANILCA Program</b>	<b>PAAD Unit</b>
<b>Mission</b>	Identify and reduce potential negative impacts on Alaska and its citizens from federal actions on federal lands in the State	Monitor implementation and advocate for the special provisions of ANILCA legislation that are unique to Alaska and to ensure that state interests are appropriately considered	Protect public rights associated with navigable and public waters, and easements across federal and private lands
<b>Organization</b>	State commission administratively located in DNR Commissioner's Office	State program organized under DNR Office of Project Management and Permitting	Combination of three DNR programs: RS 2477, trails and access, and navigability, organized under the Division of Mining, Land and Water
<b>Composition</b>	Ten volunteer citizens, two legislators, and two state employee support staff	Two state employees	Six state employees <sup>6</sup>
<b>Oversight</b>	Provides annual report summarizing prior year activities to legislature and governor; DNR commissioner does not oversee CACFA's activities	Reports to DNR commissioner who oversees ANILCA's activities	Reports to DNR commissioner who oversees PAAD's activities
<b>User Group</b>	Alaska Citizens	State of Alaska Executive Branch	State of Alaska Executive Branch
<b>Core Activity</b>	Comments on any federal land management issue in the State	Coordinates state response and comments on ANILCA-related federal land issues	Collects evidence to support access and navigability issues within the State

<sup>6</sup>The FY 16 operating budget reduced PAAD staffing to two state employees.

---

# OBJECTIVES, SCOPE, AND METHODOLOGY

---

In accordance with Title 24 of the Alaska Statutes and a special request by the Legislative Budget and Audit Committee, we have conducted a performance audit of the Citizens' Advisory Commission on Federal Areas (CACFA or commission).

## Objectives

The primary objective of this audit was to determine whether the commission has ably met its statutory mandate established in AS 41.37.

## Scope

The audit reviewed the activities of the commission from July 1, 2010, through January 31, 2015.

## Methodology

During the course of the audit, the following were reviewed and evaluated:

- Commission meeting minutes, annual reports, website, and applicable statutes to gain an understanding of commission functions, responsibilities, goals, and objectives. This included determining compliance with statutes concerning the nature and extent of public input.
- Public notice documentation to determine whether public notices for commission and subcommittee meetings were published as required by Alaska Statutes.
- Commission budget information was obtained from Session Laws of Alaska and financial amounts were obtained from the Alaska State Accounting System to gain an understanding of the commission's operations.

During the course of the audit, the following individuals were interviewed:

- The commission chair, three commission members, and the CACFA executive director to gain an understanding of the commission. Areas of inquiry included the commission's goals and objectives during the audit period and commission operations.

- 
- Department of Natural Resources (DNR) staff to gain an understanding of DNR's support to the commission. Areas of inquiry included DNR's administrative support provided to the commission and potential duplication of efforts of the commission with other DNR entities.

Inquiries regarding commission-related complaints were made with the following organizations:

- Department of Natural Resources Commissioner's Office
- Office of Victims' Rights
- Office of the Ombudsman
- Department of Administration Division of Personnel and Labor Relations
- United States Equal Employment Opportunity Commission
- Alaska State Commission for Human Rights

# Agency Response from the Department of Natural Resources



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

## Department of Natural Resources

COMMISSIONER'S OFFICE

550 W. 7<sup>th</sup> #1400  
Anchorage, AK 99501  
Main: 907.269.8431  
Fax: 907.269.8918

September 24, 2015

Kris Curtis  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, Alaska 99811-3300

RECEIVED  
SEP 24 2015  
LEGISLATIVE AUDIT

Re: Confidential Preliminary Report, Audit Control No. 10-30079-15

Dear Ms. Curtis:

The Department of Natural Resources (DNR) has received the Confidential Preliminary Report regarding the Citizens' Advisory Commission on Federal Areas (CACFA) and appreciates this opportunity to provide comments. The following explains the relationship between DNR and CACFA, and provides our comments on the report's conclusions and recommendations.

While CACFA may be administratively part of DNR's structure and budget, DNR does not have the authority to direct its activities. CACFA is composed of 12 commissioners appointed by the Governor and the Legislature who operate independently. The Executive Director of CACFA also reports directly to the Commission, not to DNR. But regardless of the chain of command, DNR and CACFA work closely together on a multitude of issues of mutual concern.

We generally agree with the report's conclusions and both recommendations, in particular that CACFA has met its statutory mandates and objectives by monitoring management plans for federal lands within Alaska and providing comments to decision makers. We also agree that CACFA staff can make improvements in public noticing its meetings and posting minutes and have dedicated staff time in the Commissioner's office to assist CACFA with its administrative and organizational needs.

While we agree that it appears proper procedures may not have been followed for noticing full commission meetings, we are not as clear about the notice and comment requirements for the subcommittee meetings. We recommend that CACFA consult with the Department of Law to clarify statutory requirements and we will do our best to assist commissioners and staff to make improvements where required or desired.

Thank you very much for the opportunity to provide input on the Preliminary Report. Please feel free to contact me if you need more information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ed Fogels".

Ed Fogels  
Deputy Commissioner

(Intentionally left blank)

# Agency Response from the Citizens' Advisory Commission on Federal Areas

## ALASKA STATE LEGISLATURE

*Interim:*  
600 East Railroad Avenue  
Wasilla, Alaska 99654  
Phone (907) 373-1842  
Fax: (907) 373-4729



*Session:*  
State Capitol Building  
Juneau, Alaska 99801-1182  
Phone: (907) 465-2186  
Fax: (907) 465-3818

### REPRESENTATIVE WES KELLER DISTRICT 10

September 29, 2015

Kris Curtis  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, Alaska 99811-3300

RECEIVED  
SEP 29 2015  
LEGISLATIVE AUDIT

Re: Confidential Preliminary Report, Audit Control No. 10-30079-15

Dear Ms. Curtis:

This constitutes the Citizens' Advisory Commission on Federal Areas in Alaska (hereinafter "the Commission") formal response to the Confidential Preliminary Report associated with the Legislative Audit, Audit Control No. 10-30079-15. The Commission sincerely appreciates the comprehensive and detailed research that went into developing this audit report, as well as the dedication to accuracy and relevance so skillfully exhibited by the auditors.

#### **Response to Recommendation 1**

The Commission currently holds three public meetings per year, one each in Juneau, Fairbanks and Anchorage, pursuant to its mandate to "hold hearings" as outlined in AS 41.37.220. Under AS 41.37.220(h), "hearings" of the Commission must be noticed as provided in AS 44.62.190 and 44.62.200, which require (as noted in the audit report) 30-days advance notice on the State's Online Public Notice System and in a newspaper or trade publication.

The Commission agrees that its three annual meetings constitute "hearings" and that, during the audit period (July 2010 through January 2015), the statutory requirements for public notice were not consistently met. Commission staff have been advised of the requirements and will strictly adhere to them for all Commission meetings going forward. In the time since Commission staff were informed of the statutory notice requirements, all four Commission meetings and all three Advisory Group meetings were noticed in conformance with statute and the Commission's

E-Mail: [Representative\\_Wes\\_Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)  
Call Juneau Toll free: (800) 468-2186  
Website: [www.akRepublicans.org/keller/](http://www.akRepublicans.org/keller/)

bylaws. All future meetings of the Commission and its Advisory Group(s) will not proceed without full adherence to public notice requirements.

While agreeing with the content of Recommendation 1 as it pertains to Commission meetings, the Commission respectfully disagrees with the audit's interpretation of statutory requirements related to subcommittee activities. Specifically, the Commission does not find subcommittee meetings are subject to the same notice and comment requirements as full Commission meetings. The audit's conclusion is inconsistent with fundamental rules of statutory interpretation and would lead to an absurd implementation of the Open Meetings Act and the Commission's enabling statute. Commission staff are in close consultation with Administrative Law experts and others in the Department of Law and subcommittees will be proceeding in total conformance with the Open Meetings Act and other statutory and institutional requirements.

**Response to Recommendation 2**

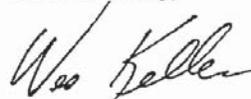
After reviewing the Commission's bylaws, website, draft and approved meeting minutes and video/audio archives, the Commission agrees that meeting minutes have not been made available in a timely or consistent way during the audit period. Commission staff have been advised of the bylaw's 30-day requirement for transmission of meeting minutes and will strictly adhere to that timeframe for all Commission meetings going forward, pending any amendment to the bylaws.

Since January 2014, video/audio files of each Commission and Advisory Group meeting have been posted on the Commission's 360 North archive webpage or on Vimeo once those files became available for posting. This practice will continue for each meeting as a means of providing a place for interested members of the public to directly view/listen to each meeting and learn of Commission and Advisory Group activities and federal land issues. Even so, until our state's infrastructure evolves to the point streaming video/audio is accessible to each Alaskan, the development and timely dissemination of written meeting minutes is critical.

The Commission is and has been working on the most efficient and effective format for transmitting meeting minutes, which could help make the short turn-around more manageable for staff and the current workload. The Commission is dedicated to its mission to keep the public informed and engaged, regardless of whether they can attend meetings in person. Combinations of video/audio links and progressively comprehensive formats are being considered to ensure the public is aware of Commission and Advisory Group discussions and actions, particularly where germane to pending federal administrative comment deadlines.

Thank you for this opportunity to review and comment on the Confidential Preliminary Report. Please do not hesitate to contact me with any questions or requests for clarification.

Yours Faithfully,



Representative Wes Keller  
Chairman

E-Mail: [Representative\\_Wes\\_Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)  
Call Juneau Toll free: (800) 468-2186  
Website: [www.akRepublicans.org/keller/](http://www.akRepublicans.org/keller/)

---

---

cc: Mark Myers, Commissioner, Department of Natural Resources  
Ed Fogels, Deputy Commissioner, Department of Natural Resources  
Sara Taylor, Executive Director, Citizens' Advisory Commission on Federal Areas

E-Mail: [Representative\\_Wes\\_Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)  
Call Juneau Toll free: (800) 468-2186  
Website: [www.akrepublicans.org/keller/](http://www.akrepublicans.org/keller/)

(Intentionally left blank)

# Legislative Auditor's Additional Comments

## ALASKA STATE LEGISLATURE LEGISLATIVE BUDGET AND AUDIT COMMITTEE



Division of Legislative Audit

P.O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347  
legaudit@akleg.gov

October 13, 2015

Members of the Legislative Budget  
and Audit Committee:

We have reviewed the Citizens' Advisory Commission on Federal Areas' (CACFA) response to the audit report. Nothing contained in the response causes us to revise or reconsider the report conclusions and recommendations. The chairman disagrees that CACFA subcommittees are subject to the same notice requirements as full commission meetings, and cites concurrence with this opinion by Department of Law attorneys and Administrative Law experts. However, CACFA has not sought a written legal opinion regarding this issue. We requested a legal review by Legislative Legal Services, and results of the review support Recommendation 1. Based on this legal guidance and our review of statutes, we reaffirm the conclusion and recommendation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA  
Legislative Auditor

(Intentionally left blank)