Reflections on the Tenth Anniversary of the Refuge Improvement Act

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Alaska’s Refuges and the Improvement Act

by Mike Boylan

The danger in looking at Alaska to understand the Refuge System is like looking for a date in a funhouse mirror – the image is pretty distorted. Alaska has just three percent of the nation’s wildlife refuges, but a whopping 80 percent of the acreage. To give a sense of scale, Yukon Delta National Wildlife Refuge is the size of South Carolina.

Alaska’s big size has spawned big dreams, and these have touched its refuges. In the 1960s, the state wanted to build a dam and flood an area the size of New Jersey for hydroelectric power. The Rampart Dam project fell through, though, and today the third largest refuge, Yukon Flats, sits where there might have been a reservoir larger than Lake Erie. In 1958, the Atomic Energy Commission wanted to demonstrate the peaceful uses of nuclear power by atom-blasting a harbor at Cape Thompson in today’s Alaska Maritime Refuge. Project Chariot was abandoned, but Amchitka

Reflections on the Tenth Anniversary of the Refuge Improvement Act

The Centrality of the Mission

by Robert Fischman

Ten years after Congress enacted the National Wildlife Refuge System Improvement Act, the law remains the most recent organic act for any federal public land system. The envy of other systems, the law provides a hierarchy of preferred uses, comprehensive planning, substantive management criteria and many other elements necessary to conserve public resources.

The most fundamental change wrought by the 1997 law is its systemic goal of conservation. The U.S. Fish and Wildlife Service must “sustain and, where appropriate, restore and enhance healthy populations of fish, wildlife, and plants utilizing . . . methods and procedures associated with modern scientific resource programs.” This is a very different conception of conservation from the multiple-use, sustained-yield missions that sought to conserve a steady stream of commodities to be extracted from the public lands. It also embraces a broader land and water ethic that extends to plants and habitat rather than the previous, almost exclusive, focus on animals.

A key lesson of conservation biology is that nature reserves need to be interconnected. The 1997 Act reconceived the Refuge System as a “national network” of lands and waters to sustain plants and animals. This realigned the geometry of refuge conservation from linear flyways to a
Science in The Refuge System

Improvement Act

Island, part of the Aleutian Islands Reservation since 1913, endured three underground nuclear tests, including the largest held in the U.S. in 1971.

It’s no wonder that Alaska National Interest Lands Conservation Act (ANILCA) was seen as the salvation of Alaska’s refuges. And it’s no surprise that the National Wildlife Refuge System Improvement Act clearly defers to ANILCA: “If any conflict arises between any provisions of this Act and any provision of the Alaska National Interest Lands Conservation Act, then the provisions in the Alaska National Interest Lands Conservation Act shall prevail.”

It would be an exaggeration to say ANILCA gave birth to the Refuge Improvement Act, but it was certainly present in the delivery room. Three notable examples include the Refuge Improvement Act’s consistent direction for Comprehensive Conservation Plans (CCPs), its visionary Biological Integrity policy, and its innovative Appropriate Uses policy.

New Level of Scientific Sophistication

The Refuge Improvement Act directs that CCPs be developed for each refuge or complex within 15 years, “except with respect to refuge lands in Alaska...” This exemption recognizes that Alaska has had CCPs since the 1980s, as required by ANILCA. Still, Alaska refuges have seized upon Refuge Improvement Act guidance to revise their CCPs to address new challenges and opportunities. The Improvement Act adopted Alaska’s “Comprehensive Conservation Plans” title as the national standard, replacing variants like “master plan” and “comprehensive management plan” used before the Act.

If the Improvement Act benefited from ANILCA, it reciprocated by patching some holes in the landmark law. For example, among the standard purposes ANILCA specified for each refuge is “to conserve fish and wildlife populations and habitats in their natural diversity...” Regrettably, ANILCA didn’t define “natural diversity.” However, the Refuge Improvement Act provides direction to “ensure that the biological integrity, diversity, and environmental health of the System are maintained.” The subsequent 2001 Policy on Biological Integrity turned ANILCA’s “natural diversity” from a stumbling block into a stepping stone by clarifying that biological integrity must “provide for the consideration and protection of the broad spectrum of fish, wildlife and habitat resources found on refuges and associated ecosystems. Further, it provides refuge managers with an evaluation process to “...prevent further degradation of environmental conditions and...restore lost or severely degraded components.”

This policy brought a new level of scientific sophistication to refuge management by considering genetic variation, population levels, keystone species, and the like.

Meeting the Mission at Minnesota Valley National Wildlife Refuge

But there is more. In an effort to hold the Service accountable to the broad purpose for the Refuge System, Congress imposed a number of path-breaking substantive management criteria. The law requires that the Service maintain “biological integrity, diversity, and environmental health” on refuges. This is the most ecological standard in all of U.S. public land law. It represented a return of the Refuge System to the cutting edge of conservation after three decades of lagging. The Service policy implementing this standard addresses external threats – those sources of degradation that originate from actions that occur outside of the refuge boundary. Of all the federal public land systems, only the national parks’ policies deal as forthrightly with external threats.

One of my favorite examples of how this policy can make a difference in meeting the mission occurred near Minnesota Valley National Wildlife Refuge in 2003-04. Facing construction of a 19,250-seat, amphitheater on a tract of land adjacent to the refuge, the refuge staff carefully documented how the amphitheater would project noise, nighttime light and stormwater into the refuge, harming refuge resources and priority public uses. They took measures to ensure that these concerns were incorporated into the formal environmental impact analysis of the proposed project, and the Service followed the policy’s prescription to raise concerns in the context of local land use procedures. The regional director testified in opposition to the project’s conditional use permit before the county commission. In the face of the Service’s well-documented opposition, which was amplified by the refuge Friends organization, the county commissioners unanimously rejected the permit application.

Stewardship and Restoration

The 1997 statutory mission of the system also includes restoration, where appropriate, of plants and animals. This element is reflected in three unusual obligations. First, the Service has a duty to acquire water rights, the only...
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affirmative trust mandate of its kind in
U.S. public land law. Because instream
flow problems in refuges are generally
caused by upstream users outside of
the refuge boundaries, this provision
supports the commitment to abate
external threats.

Second, the 1997 statute requires the
Service to “monitor the status and
trends” of animals and plants in each
refuge. This biological monitoring duty
will prompt development of an essential,
yet chronically missing, element of
adaptive management. Adaptive
management requires feedback about
the consequences of decisions in order
to adjust them continually. Public land
management generally lacks a research
component that adequately evaluates the
success of predictions.

Third, the Service now has an affirmative
conservation stewardship duty. This
looks to the future when the system will
face problems not specifically addressed
in the current law. While it will initially
be used as a shield to defend protective
actions, it may ultimately be wielded as

![Blackwater National Wildlife Refuge in Maryland (Karen Hollingsworth/USFWS)](image)

a sword to advance the restoration goal
and the mission to maintain biological
integrity, diversity, and environmental
health. To succeed, refuges must go
beyond abating threats and lead through
example to demonstrate what good land
use is for a watershed or region.

The Challenge and Potential of
Purpose

Notwithstanding its systemic purpose,
the 1997 law retained the disparate
purposes for which individual refuges
were established. The Service still
faces a tremendous challenge in
orchestrating the hodgepodge of refuges

Is the Refuge Improvement Act all Wet? — continued from pg 15

to ensure the necessary quantities? The
short answer is yes... and no.

Few refuges have federally reserved water
rights, and the overwhelming majority
operates under state water laws with water
rights granted by the states. Although
the Act does not create new water rights,
its does require that the Secretary of the
Interior “acquire, under state law, water
rights that are needed for refuge purposes”
and “assist in the maintenance of adequate
water quantity and water quality to fulfill
the mission of the System.”

While this directive to the Secretary
is clear, ultimately the Refuge System
must have adequate funds to meet this
obligation. The Western Water Policy
Review Advisory Commission reported
in 1998 that the Service has inadequate
funding to access and document the
water uses and needs on refuges and
recommended development of a program
to “improve data collection and analysis for
use in defense of refuge water rights” and
“increase the efficiency and effectiveness of
existing water management.”

Until the Administration requests
and Congress substantially increases
appropriations for purchasing water rights,
the Secretary will simply be unable to
comply with the law.

In the meantime, it is the responsibility
of those who care about refuges to defend
refuge water needs. Some refuges have
already benefited from citizen action.
Tennessee and Cross Creeks National
Wildlife Refuges may be spared drastically
reduced water volume and its disastrous
effects on wildlife as a result of intervention
by the National Wildlife Refuge
Association and others who stopped
“rider language” in the Water Resources
Development Act that would have
extended high water levels in upstream
Lake Barkley.

If we do nothing about water quantity,
many of this country’s most beautiful and
biologically diverse lands will cease to exist.
Refuge supporters around the country
need to look around them, acknowledge
and understand the problem, and do what
they can to assure that refuge habitat and
wildlife have a voice in the clamor for the
clean water we all need in order to survive
and thrive. ◆

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