



THE STATE
of **ALASKA**

GOVERNOR SEAN PARNELL

Department of Natural Resources

CITIZENS' ADVISORY COMMISSION ON
FEDERAL AREAS
Stan Leaphart, Executive Director

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February 15, 2013

Sue Masica
Regional Director
National Park Service
240 West 5th Avenue
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Dear Ms. Masica:

The Citizens' Advisory Commission on Federal Areas reviewed the proposed changes to the 2013 Superintendents' Compendiums for the National Park units in Alaska. We offer the following comments for your consideration in finalizing these documents for 2013.

We appreciated the opportunity to participate in the October 2012 meeting with Regional Office staff, the chief rangers and other staff for the Alaska park units to discuss proposed changes to this year's compendiums. We also want to thank Deputy Regional Director Joel Hard for taking the time to meet to discuss our concerns with the public hearing schedule as well as problems with the compendium process.

We have elected to offer no specific comments on the individual regulations proposed for the 2013 compendiums. We thought it more important to convey our continuing concerns about unresolved problems in the compendium process, as well as deficiencies associated with this year's compendium revisions.

With regard to the proposed regulations preempting State of Alaska hunting regulations in the eight national preserve units, and other proposed revisions, we defer to and fully endorse the comments submitted by the Alaska Department of Fish and Game and the State of Alaska ANILCA Implementation Program .

Public Hearing Schedule

The Commission previously outlined its concerns regarding the inadequate public hearing and meeting schedule for the proposed 2013 compendium revisions. We have attached

copies of the two earlier letters submitted to your office and ask they be included in the record for the 2013 compendium revisions. This letter expands on those earlier concerns.

The National Park Service held only seven public hearings throughout the state, primarily to discuss proposed revisions to State hunting regulations related to the take of black bears at den sites, take of brown bear at bait stations and extended seasons for take of wolves and coyotes adopted by the Alaska Board of Game. The hearings in Tok and Slana also addressed the proposed trail closure in the Nabesna Road area of Wrangell- St. Elias National Park & Preserve. If adopted, these proposed National Park Service hunting regulations would preempt State general hunting regulations in the national preserve portions of Gates of the Arctic National Park & Preserve, Denali National Park & Preserve, Yukon-Charley Rivers National Preserve, Wrangell-St. Elias National Park & Preserve, Lake Clark National Park & Preserve, Katmai National Park & Preserve, Aniakchak Wild River and Aniakchak National Monument & Preserve.

Despite two separate written requests from this Commission for additional hearings prior to and during the public comment period, the National Park Service added only one public meeting to its original schedule. In addition, only one of the formal public meetings took place during the January 15 to February 15 public comment period. All other meetings were held before the proposed revised documents were available. Consequently, there was no opportunity for the public to review and comment on specific regulatory language or supporting documentation at any meetings held prior to the January 15 release date.¹

Unfortunately, the one additional meeting held was a session at the *Alaska Forum on the Environment*. This forum was open to the public only upon payment of a substantial registration fee. Appropriately, when this Commission objected to the plan to solicit public comments during a meeting restricted to registered, paying forum participants, the Service decided not to treat any comments received as formal comments.

We see some benefits in the informal outreach effort on *Facebook*. However, it is not a suitable replacement for on the ground public meetings which are required by NPS regulations to be held in the vicinity of the directly affected areas. We also question the functional availability of *Facebook* as an appropriate meeting venue in the more rural areas of the state, where internet service is unavailable or unreliable.

National Park Service regulations found in 36 CFR §13.40(e) authorize a park superintendent to prohibit or restrict the non-subsistence take of fish or wildlife:

The Superintendent may prohibit or restrict the non-subsistence taking of fish or wildlife in accordance with the provisions of §13.50 of this chapter. Except in emergency conditions, such restrictions shall take effect only after the Superintendent has consulted with the appropriate State agency having

¹ In responding to our December 10, 2012 request for proposed compendium language and supporting information, an NPS official stated that the agency did not intent to release proposed language prior to the beginning of the January 15, 2103 comment period.

responsibility over fishing, hunting, or trapping and representatives of affected users.

These compendium regulations are not being proposed to address an emergency condition in any of the preserve areas. In fact, the proposed regulations are categorized in each of the compendiums as “temporary closures or restrictions to the taking of fish and wildlife.” While the nature of the proposals and the supporting rationale call into question their categorization as temporary, the agency must follow the process outlined in §13.50(d)(1) *Temporary closures or restrictions:*

Temporary closures or restrictions relating to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as appropriate;

The NPS has not fully met the hearing requirements necessary to legally put into effect these proposed regulations. While there is no definition in the regulations for “in the vicinity” of an area, when the size and location of the preserve units in relation to the affected communities are taken into consideration, the hearing schedule falls well short of complying with the requirements in the regulations under a reasonable interpretation of the term.

Using the example from our December 15, 2012 letter, the closest subsistence resident zone community for Denali National Park & Preserve (Minchumina) is more than 100 miles from the park headquarters area, the location of the single public meeting for that park and preserve unit. Except for Cantwell, the only practical access from any of the resident zone communities for Denali is by aircraft, making travel solely for the purpose of attending a 2 hour meeting problematic for the majority of rural residents. Most of the other park and preserve units have similar travel issues related to the distance between affected resident zone communities and the hearing locations.

While the proposed compendium regulations would preempt State general hunting regulations, subsistence users living in the resident zone communities near these preserve units clearly will be affected. Notwithstanding their status as qualified rural residents under the Federal regulations, residents of these communities regularly hunt in the preserve units and on other Federal lands under State general hunting regulations and have a significant interest in the process.

We fully understand that resident zone communities are not designated for national preserves. However, only two of the affected units, Yukon-Charley Rivers National Preserve and Alagnak Wild River do not have designated resident zone communities. Resident zone communities are obvious and logical choices for public hearings to discuss regulatory changes that will affect any harvest opportunity – whether the harvest is under State or Federal regulation. It is disappointing to note that of the 49 potentially affected resident zone communities in the vicinity of the respective preserve units, hearings were held in only seven.

Temporary, Permanent and Seasonal Closures and Restrictions

This Commission has regularly commented on the National Park Service practice of implementing closures and restrictions utilizing the compendium process. As we stated in our comments on the 2012 compendiums, there are a number of seasonal closure and use restrictions that have been in various park compendiums for several years. These have remained in place and have effectively evolved into permanent closures and restrictions despite the requirements and limitations in 36 CFR §13.50. For the record, we note that they are proposed to remain in place during 2013, marking the fourth or even fifth year for these “temporary” closures and restrictions.

There are several proposed “temporary” restrictions that appear for the first time in the 2013 compendiums. However, given the nature of the restrictions and the justifications used by the NPS to support the need for them (particularly the hunting restrictions), they will undoubtedly evolve into permanent restrictions, even if the procedural requirements of §13.50 are never met.

It is an established fact that this Commission and the National Park Service clearly have differing interpretations on when and how formal regulatory closure procedures must be followed. We are reluctant to support the implementation of any formal regulations that result in permanent restrictions to uses and activities in Alaskan park units. Allowed public uses and activities in these units should only be restricted when there is a clear need to do so, using the criteria set out in ANILCA and the Alaska specific regulations.

However, we strongly believe that the practice of implementing and maintaining closures and restrictions for extended periods through park compendiums is a misuse of the compendium process. This practice is primarily a means to avoid compliance with the statutory and regulatory requirements that management agencies are required to meet before closing areas or restricting uses in all Alaskan Conservation System Units, including National Parks and Preserves. We repeat our longstanding objections to the continuing use of this practice.

A look at a past example of how the NPS regulatory process for implementing closures or restrictions was designed to work is instructive. We would encourage the NPS to examine its archives to verify the accuracy of this example for itself. This example is particularly pertinent to the currently proposed compendium revisions because it also involved a conflict between State of Alaska general hunting regulations and NPS management policies. Its greatest relevance is as an example where the NPS both recognized and complied with the regulatory process. It also involved hunters, trappers, wolves and airplanes, and an intense debate on management of wildlife resources, a mixture that was as volatile 25 years ago in Alaska as it is today.

In November 1987 the Alaska Board of Game adopted regulations allowing the same-day airborne harvest of wolves in several game management units. Those units included portions of eight national preserves – Bering Land Bridge, Noatak, Gates of the Arctic, Yukon-Charley Rivers, Denali, Lake Clark, Katmai and Aniakchak.

In early 1988, the NPS notified the Board, objecting to the State regulations which were scheduled to go into effect on August 10, 1988. When the Board declined to place the issue of same-day airborne hunting on its schedule for the November 1988 meeting, the NPS announced that it was proposing a restriction on same-day hunting of wolves in national preserves:

*The same-day airborne hunting of wolves in national preserves would be **restricted for one year** under a proposal by the Alaska Region of the National Park Service....*

*Eleven public hearings on the proposal are scheduled. The proposal under consideration is a temporary restriction, pursuant to 36 Code of Federal Regulations, Section 13.30(d)², **and would be in effect a maximum of one year.***
(National Park Service News Release, September 16, 1988, emphasis added)

At about the same time the temporary restriction was announced, the NPS submitted a formal proposal to the Board of Game asking it to take action to exclude national preserves from the same-day airborne take of wolves under the State regulations. The NPS also notified the Board of the pending temporary restriction and its intention to initiate a permanent rulemaking if the Board did not adopt the proposal. The Board responded that the same-day airborne take of wolves was not on its schedule until November 1990 and declined to change that schedule in the absence of a biological emergency.

After holding the eleven hearings and completion of a 60 day review period for the proposed temporary restriction, the NPS made the following announcement:

*Same-day airborne hunting of wolves in national preserves will be illegal after November 21, **under a one-year restriction** being implemented by the Alaska Region of the National Park Service....*

*Enforcement of the new restriction begins November 21. **The temporary restriction will be in place for one year.** Over the next year, the National Park Service will work with state Department of fish and Game officials in hopes of amending state game laws to permanently ban land-and-shoot hunting in federal preserves.”* (National Park Service News Release, November 4, 1988, emphasis added.)

² Now 36 CFR §13.50(d)

Between November 1988 and June 1989, negotiations between the State of Alaska and the National Park Service continued. To accommodate NPS concerns, the Board of Game changed its schedule to address same-day airborne hunting at the November 1989 meeting. However, the Service still found the schedule unacceptable.

In April, 1989 the NPS notified the State that permanent regulations that would prohibit same-day airborne hunting in national preserves had been drafted and would be released. The agency wanted to ensure that regulations would be in place when the temporary, one- year restriction expired, even if the Board took no action to exclude national preserves from application of the State regulation. Nevertheless, in May the Service notified the State that it remained committed to working through the Board process before finalizing any permanent regulations.

On June 9, 1989 the Service issued proposed permanent regulations with a 60 day comment period (54 FR 24852). Sixteen public hearings were held throughout Alaska, including Anchorage and Fairbanks, during July and August 1989. However, these proposed regulations were not finalized because the Board of Game in November 1989 took action to exclude national preserves from the state regulation allowing same-day airborne hunting of wolves under the general hunting regulations.

There were additional issues to clarify regarding the effects of the Board's action on subsistence hunters, but in March 1990 same-day airborne hunting of wolves in national preserves was prohibited through State regulatory action. The State regulations became effective in August 1990. On October 10, 1990 the NPS published a notice in the *Federal Register* (55 FR 45663) announcing the exception for the preserves.³

We have included this example to illustrate a key point. That is that the National Park Service previously recognized and adhered to the restrictions and procedural requirement for implementing temporary closures found in its regulations. Restrictions and procedural requirements that we are compelled to point out, remain nearly unchanged since the original 36 CFR Part 13 regulations were released in 1981.

When the 1988 temporary restrictions were announced, it was made clear to the public that they would expire at the end of one year, which was the case. At the same time, the NPS began working on a formal set of permanent regulations. The NPS also continued to work with the Alaska Department of Fish & Game as well as through the Board of Game process by submitting formal proposals for consideration.

Clearly accommodations such as adjusting Board schedules and withholding implementation of final regulations had to be made by both the State and the NPS. It was a contentious and hotly debated issue, but ultimately resolved because both the State and the NPS recognized the appropriate role and authority of the other party. The fact that

³ Subsequent action by the Board of Game in 1993 resulted in formal regulatory action by the National Park Service.

In April 1995 the NPS adopted a revised version of the original 1989 proposed regulations. These regulations are those now found at 36 CFR §13.40(d)(1)-(4).

ultimately the NPS did promulgate its own regulations related to same day airborne hunting does not diminish this earlier effort.

The ongoing dispute over the manner in which compendiums are used (many say misused or abused) must be resolved. Use of the compendium to implement regulations which are presented as temporary but which stay in place year after year violate the Alaska specific regulations in 36 CFR Part 13 and 43 CFR Part 36 and is an abuse of the agency's authority.

As more "temporary" closures are added to the various compendiums each year with no effort made by the NPS to either drop them after the required one year limit or to initiate the required process to make them permanent, the abuse is compounded. This legal sleight of hand, supported by the 2002 DOI Regional Solicitor's opinion, practiced by the NPS to extend so-called temporary restrictions indefinitely and avoid its responsibilities under ANILCA and its implementing regulations is becoming increasingly intolerable. We would also question whether these restrictions and closures are legally enforceable because they have not been properly promulgated.

The Commission fully appreciates that the formal rulemaking process is both time consuming and labor intensive, particularly when public meetings or hearings are required. Some maintain that it does not always provide managers with sufficient flexibility to respond to management concerns. We agree that park superintendents need management flexibility, as do all land managers. That flexibility is provided through the emergency and temporary closure authority outlined in 36 CFR §13.50.

That authority, however, is not without limits and requires a superintendent to follow the process outlined in those same regulations before exercising it. The promulgation of federal regulations is not intended to be easy or arbitrary and requires careful consideration. The current use of the Compendium process by the NPS inappropriately skirts the intent of the process by taking an "easy" route when a more difficult but contemplative one should be used to meet its responsibilities to the public.

As the NPS is fully aware, there are many activities authorized or allowed in Alaska park units under ANILCA that are not allowed in units elsewhere. In adopting the first final regulations following passage of the act, the NPS recognized this in explaining the new regulations:

Under 5 U.S.C. 553(d), a agency is authorized to make final regulations immediately effective when the regulation relieves restrictions, is an interpretive rule, or when good cause exists for expeditious rulemaking. The National Park Service (NPS) desires to utilize the immediately effective date for the following reasons.

First, many of the provisions relieve the otherwise applicable restrictions of 36 CFR Parts 1-9, which are inappropriate in the unique Alaska setting. For example, standard restrictions on access, firearms, preservation of natural

features, abandoned property and camping and picnicking are relieved by these regulations.

Second, certain portions of these regulations constitute interpretive rules giving the Department's views on existing legal duties. The interpretive rules are found in §13.15(c) and (d).⁴

Third, and most importantly, the Department has found that good cause exists for immediately effective regulations. This good cause finding is based on many factors, including: (1) The need to provide definitive public guidance on allowed activities for the peak park use seasons, (2) the need to alleviate public fears and confusion arising from directives in ANILCA which are inconsistent with existing NPS regulations (e.g., aircraft and snowmobile access), and (3) the need to have in place administrative procedures for obtaining statutory benefits under ANILCA (e.g., access to inholdings, temporary access, cabins, subsistence).... (46 FR 31836, June 17, 1981, emphasis added).

The ANILCA park units are to remain open to these and other statutorily authorized activities, including hunting, under the law unless the NPS takes the necessary legal steps to restrict or prohibit them. Providing for these activities represented a huge compromise necessary for the passage of the statute. We do not dispute the agency's authority to restrict activities under certain conditions for specific reasons and guided by certain criteria. But what is clear from an examination of the legislative history of ANILCA, which is reflected in the above excerpt from the June 1981 regulations, is that Congress and the Department of the Interior intended to limit the authority of a superintendent to restrict an activity or close an area in an Alaskan park unit by requiring a more deliberative process than is required under the general regulations found in 36 CFR §1.5.

A key aspect of the Alaska specific regulations which is not found in the general regulations in §1.5 is a time limit for a temporary closure. Contrary to the creative legal logic found in the 2002 solicitor's opinion, we find nothing in the NPS regulations that makes the 12 month time limit for a temporary closure or restriction discretionary or optional. Nor do we find anything that allows the agency to defer acting until "time and other priorities permit."

National Park Service Interaction with the Alaska Board of Game.

The Commission cannot speak with regards to the specifics of the functions of the Alaska Board of Game (Board) regulatory process since it operates on entirely separate legal authorities. However, we can provide our perspective that the NPS does not adequately recognize nor utilize the Board process that is open to them. The Board process was developed to allow all citizens the ability to participate in decisions regarding the

⁴ This two subparagraphs dealt with Title XI access requiring permanent improvements and applicability of NPS regulations at 36 CFR Part 9 (access to mining claims and non-federal oil and gas rights). Both subparagraphs were subsequently replaced by other regulations.

management of Alaska's fish and wildlife resources. The process is at times cumbersome but remains open to all who may have an interest, including the NPS and other Federal agencies. The observation of the Commission is that the NPS does not adequately use those opportunities presented to explain its positions to the Board.

We do know that the NPS does submit formal comment letters to the Board presenting positions and requesting certain actions, but it does not generally make specific proposals. Our review of the proposals submitted to the Board over the last 3 years found only one instance when the NPS submitted a formal proposal. This was in 2010 when the superintendents for Denali National Park & Preserve and Gates of the Arctic National Preserve submitted a proposals to the Board regarding the customary and traditional harvest of black bears at den sites.

In addition, the NPS does not always provide knowledgeable staff to present information and take questions from the Board regarding its comments or concerns. It is this interaction between the Board, agency representatives and the public that makes Alaska's process so unique. At the most recent Board meeting NPS staff did present a staff report, but no staff provided public comment on specific proposals during the meeting. We also note that the NPS did not submit any specific proposals for consideration by the Board at this meeting. This would have been the ideal opportunity for the NPS to submit proposals, along with appropriate documentary justification, asking the Board to use its authority to implement the same restrictions now being contemplated for inclusion in the 2013 compendiums.

We do note, however, that the National Parks Conservation Association (NPCA) submitted three separate proposals regarding the use of wildlife in park areas. Those proposals were written in such a fashion that it was difficult to determine just who was submitting the comments, the agency or the non-governmental organization? We certainly understand that the NPS has no control over proposals or comments submitted by the NPCA and it is certainly appropriate for that organization to do so. However, the absence of any proposals or testimony by the NPS leaves many wondering if the NPS is content with allowing the NPCA to be its public advocate. Wider participation by the NPS in the Board process would help to clarify this situation and place the NPS in the role of being its own public advocate, a role it should not leave solely to the NPCA or other organizations.

The NPS may or may not find satisfactory results at Board of Game meetings regarding its interests, but it has nothing to lose in greater participation. We are confident that Board members will interact in a respectful and professional manner with NPS staff, even if they vigorously disagree with an agency proposal or comment. In our observation the Board appreciates the input by those who testify and present themselves for questions. Such action would also be consistent with the commitment by the NPS to the State of Alaska in their mutually agreed upon Master Memorandum of Understanding, whereby the NPS commits to:

To utilize the State's regulatory process to the maximum extent allowed by Federal law in developing or modifying existing Federal regulations or proposing changes in existing State regulations governing or affecting the taking of fish and wildlife on Service lands in Alaska.

In our recent discussion with NPS staff, the comment was made more than once that the agency had to act to preempt the State regulations because the agency could not abrogate its management responsibilities. We are aware of no instance where this Commission or the State of Alaska would expect the NPS to do that. Use of the Board process would not tie the hands of the NPS to seek future satisfaction through the federal regulatory process, but it may go a long way towards mending what is increasingly viewed as a broken process.

As always, the Commission appreciates the opportunity to submit these comments on the park compendiums. We recognize their utility and their importance in advising the public of the rules that apply to the Alaskan park units. They have been improved greatly since the time we had to file a Freedom of Information Act request in order to get copies. However, the manner in which they are currently being utilized and revised is in serious need of repair. We are committed to continue to work with your office and the individual park units to make that happen.

Regards,

A handwritten signature in black ink, appearing to read "Stan Leaphart", with a stylized, sweeping flourish at the end.

Stan Leaphart
Executive Director

cc: Sue Magee, ANILCA Program Coordinator
Joel Hard, Deputy Regional Director
Andee Sears, NPS Alaska Region
Douglas Vincent-Lang, Alaska Department of Fish and Game



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December 5, 2012

Sue Masica
Regional Director
National Park Service
240 West 5th Avenue
Anchorage, AK 99501

Dear Ms. Masica:

On November 30, 2012 Denali National Park and Preserve issued a news release announcing a public hearing on proposed changes to the state hunting regulations for Denali National Preserve. The single hearing is scheduled for December 12, 2012 at the Murie Science and Learning Center. According to the announcement, the hearing is the first step leading to the potential implementation of hunting restrictions in the annual Superintendent's Compendium.

On Monday, December 3, this office inquired if additional meetings or hearings would be held in the resident zone communities for Denali, as they are much closer to the preserve portion of Denali than is the park headquarters area and are clearly in the vicinity of the area most affected by the proposal. We were informed that only the one hearing would be held, as it was more likely that sport hunters potentially impacted by the proposed restrictions "will not be residents of the subsistence communities."

This statement unfortunately ignores the obvious fact that federally qualified subsistence users residing in national park resident zone communities regularly harvest game in national preserve units and on other federal and state lands under the State of Alaska general hunting regulations. They also would be "potentially impacted" by any National Park Service proposal to restrict hunting by preempting the State hunting regulations in question.

We also were inaccurately told that the Denali Subsistence Resource Commission (SRC), after receiving input from subsistence users, had sent a letter of support on this issue. In fact, the October 12, 2012 letter from the SRC states only that the "*SRC supports the National Park's proposed compendium entry that would restrict the baiting of bears in the preserve.*" The SRC letter does not address the other proposed restrictions on hunting activities in the preserve which may be included in the 2013 compendium. This makes it even more important to solicit input on the other proposed restrictions from subsistence users living closest to the preserve.

The press release indicates that nine national preserve units are affected by the state hunting regulations that the NPS is proposing to preempt. This Commission has not had the opportunity to review the proposed changes, so we offer no comments specific to those. That being said, we do not support actions by Federal land management agencies that intrude into the State of Alaska's authority to manage fish and game resources.

At this point, however, our primary concern remains the continuing deficiencies in the process used by the NPS to revise and implement the compendiums for Denali National Park & Preserve and the other Alaskan park units. For example, we were told that the National Park Service Regional Office has given guidance that each park unit will only hold one public hearing to discuss proposed changes in the 2013 compendiums. We today learned that only seven hearings would be held around the state near each of the affected preserves. This guidance should be reconsidered and the hearing schedule expanded. Not only is the schedule functionally inadequate, it is inconsistent with the agency's own procedural requirements for implementing closures or restrictions on the taking of fish and wildlife.

The regulations at 36 CFR §13.50(d)(1) state temporary closures or restrictions relating to the taking of fish and wildlife *"shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as appropriate;"*

In the case of the Denali proposals, holding a single hearing on the east side of the park some 100 to 150 miles from three of the four resident zone communities and reasonably accessible only by air from those communities will make it difficult, if not impossible, for those residents to attend. While we have not seen the hearing schedule for the other preserve units, we strongly suspect residents in affected communities will have similar difficulties in attending hearings if lengthy and expensive travel is required.

In our experience the public is much more likely to engage in a process such as a compendium revision at a public meeting or hearing. This is evidenced by the small number of written comments submitted each year by the public on proposed revisions to park compendiums. The National Park Service has an obligation to provide a hearing schedule that meets the needs of the public and is not simply a token effort to comply with its regulatory requirements.

This Commission has frequently acknowledged the significant improvements in the compendium process. At the same time we have also pointed out that more work needs to be done at both the park and regional level to further improve that process. An appropriate next step would be to schedule an adequate number of public hearings for these proposed revisions.

Sincerely



Stan Leaphart
Executive Director

Cc: Rep. Wes Keller
Sue Magee – State ANILCA Coordinator
Doug Vincent-Lang – ADF&G



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January 25, 2013

Sue Masica
Regional Director
National Park Service
240 West 5th Avenue
Anchorage, AK 99501

Dear Ms. Masica:

Last week Commission member Rod Arno and I met with NPS Deputy Regional Director Joel Hard to discuss our concerns about the proposed revisions to the 2013 National Park and Preserve Compendiums. We appreciated the opportunity to discuss the issues raised in our letter of December, 5, 2012, even though we had anticipated a written response. In addition to our objection to the NPS proposal to preempt State hunting regulations, we discussed what the Commission maintains is an inadequate public hearing and meeting schedule. Mr. Hard indicated that an additional public meeting was planned in Homer and at the Alaska Forum on the Environment in February. We also understand an online meeting is scheduled for February 4 through 7.

The Commission welcomes these additional opportunities for public participation in the compendium process. However, given the significance of the proposed restrictions the public meeting schedule remains inadequate. With the exception of the Homer meeting, we are uncertain that the other venues meet the regulatory requirement that a hearing be held in the vicinity of the areas directly affected by the proposed hunting restrictions (36 CFR §13.50(d)).

Admittedly, when those regulations were originally promulgated, on-line meetings, webinars and other social media were not available. However, even now, many residents in rural Alaska who will be affected by these proposals have limited or no access to these on-line tools. Use of the internet for public outreach can supplement but not replace on the ground public meetings.

We are particularly troubled by the NPS decision to take "public" comment at the 2013 Alaska Forum on the Environment. The event information provided in the agenda for the forum states:

"NPS-Alaska leadership will present a summary of potential regulations, *take comments* about the proposals, and be available for other questions about NPS operations.....This

session will provide a description of the proposed changes, a discussion of the need for action by the NPS and *an opportunity for public comment.*"

Presentation of the proposed compendium revisions at the Alaska Forum on the Environment as an information and discussion item is certainly appropriate. Soliciting public comments at the forum for inclusion in the administrative record for the revision process is highly inappropriate. We have confirmed with forum organizers that attendance at any of the sessions requires payment of a substantial registration fee. For the purposes of the compendium revision process the forum cannot legitimately be considered an open public meeting.

We also strongly caution the NPS against treating its participation in the forum as anything other than an opportunity to provide a briefing on the proposals and to encourage interested attendees to submit comments through other acceptable methods. Comments should not be solicited at the forum, nor should any unsolicited comments by forum participants be included in the compendium record.

As of today, 21 days remain in the public review and comment period for the 2013 compendiums. Ample time remains to schedule and hold additional public hearings on the proposed changes, as this Commission suggested in our previous letter - more than 7 weeks ago. It is unfortunate that the NPS did not utilize the intervening time to better comply with the public hearing requirements found in its own regulations. We urge you to use the remaining time to do so.

Sincerely

A handwritten signature in black ink, appearing to read "Stan Leaphart", with a stylized, flowing script.

Stan Leaphart
Executive Director

cc: Sen. Lisa Murkowski
Doug Vincent-Lang – ADF&G
Sue Magee – State ANILCA Coordinator