

# STATE OF ALASKA

**SARAH PALIN, Governor**

## **ANILCA IMPLEMENTATION PROGRAM Office of Project Management and Permitting**

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June 26, 2008

Victor Knox, Acting Regional Director  
National Park Service  
Alaska Regional Office  
240 West 5<sup>th</sup> Avenue  
Anchorage, AK 99501

Dear Mr. Knox:

The State of Alaska reviewed the proposed rules implementing recent management decisions affecting Denali National Park and Preserve regarding backcountry management, Mount McKinley climbers, and off-road vehicle use for subsistence purposes (RIN 1024-AD69). The following represents the consolidated views of the State's resource agencies. We acknowledge the extensive outreach and public involvement that preceded this draft rule. As a result, we have few substantive comments.

### § 13.903 Subsistence Use of Off-Road Vehicles

We appreciate the Service is promulgating regulations to implement the decision in the 2007 Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for subsistence use of off-road vehicles (ORVs) in the Cantwell Traditional Use Area.

The proposed regulation at 36 CFR 13.903 indicates user groups authorized to operate ORVs on designed trails include "*residents of the Cantwell resident zone community or residents of Alaska Game Management Unit 13E holding a permit issued under § 13.440...*" We note this criterion is slightly different from that used in the EA, which specified "*Residents of the Cantwell Resident Zone or those who possess a subsistence permit under 36 CFR 13.44.*" While this more limited criterion was adopted in the FONSI, neither the FONSI nor the supplementary information provided in this rulemaking explain the rationale or the affect of the change. We request clarification on whether this narrower criterion would exclude any existing use (any qualified subsistence users that currently reside outside of GMU 13e). Also, it appears a currently qualified resident of GMU 13e with a 13.44 permit could lose their eligibility to operate ORVs on the designated trails if they move outside these boundaries, even if just by a few miles. If so, we suggest consideration of some Superintendent discretion to include existing or future subsistence users who are otherwise qualified.

We were unable to find documented justification for the 1,000 pound vehicular weight limit in the EA and would also appreciate a clearer understanding of its basis. We understand that the park's Subsistence Resource Commission may have made recommendations that influenced the weight limit. Given the State's vehicular limit is higher (1,500 pounds curb weight) on adjacent state-owned lands, there may be merit in maintaining consistent rules for users to follow – unless there are overriding factors applicable to this situation. We also request clarification on whether the limit is expected to cause hardship on existing qualified users that may already possess heavier vehicles.

We also note the proposed rule at 13.903 specifically references “motor vehicles” rather than ORVs. While it is clear from the EA and the section by section analysis that the proposed rule applies to ORVs, we request the Service include a specific exclusion for snowmachines, or clarify in the final Preamble that the regulation does not apply to snowmachines, which are excluded from the definition of ORV. Such measures will help ensure long-term understanding of the intent.

Lastly, while we do not dispute the Preamble statement that “*ORVs were used by successive generations of Cantwell residents,*” we remain on record that “*successive generations*” need not be a criterion when establishing methods of access “traditionally employed” pursuant to ANILCA Section 811(b).

#### § 13.904 Camping

We appreciate the Service continues to offer backcountry camping permits at no additional cost to the public. While we note the proposed regulation specifies that a permit for camping is required *in designated areas* in the former Mount McKinley National Park or the Kantishna area, as currently written, the section by section analysis gives the impression that a permit is required throughout the old park. For example, a backcountry permit is not required in the campgrounds (e.g. Teklanika). To avoid confusion, we request the section by section analysis be modified to be consistent with the regulation in the final rule and suggest the following revision:

*This proposal would clarify that camping permits are required in designated areas in the former Mount McKinley National Park and the Kantishna area.*

Thank you for this opportunity to comment. Please contact me at (907) 269-7529 if you have any questions.

Sincerely,



Susan E. Magee  
ANILCA Project Coordinator

cc: Sally Gibert, ANILCA Program Coordinator

