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November 30, 1985

Boyd Evison
Regional Director
National Park Service
2525 Gambell Street
Anchorage, AK 99503-2892

Dear Mr. *Boyd* Evison:

The State has completed its review of the National Park Service (NPS) draft General Management Plan (GMP) for the Denali National Park and Preserve (NPPr). Our comments are grouped into five major categories, Access and Transportation (page 1), Proposed Management Zoning (page 9), Natural Resource Management (page 9), Land Protection Plan (page 20), and Wilderness Suitability (page 22). The order of our comments does not reflect their importance.

We have reserved our comments on the sections of the GMP which address north-side and south-side proposals. Comments on these sections will be forthcoming.

ACCESS AND TRANSPORTATION

We recommend that the NPS make several changes to the portions of the GMP that address transportation and access. ANILCA Section 1301(b)(4) requires GMPs to include "a plan for access to, and circulation within, such unit . . ." (emphasis added). Currently statements addressing access are spread throughout the GMP making it very difficult to ascertain NPS management intent. All management intent regarding access and transportation should be consolidated in a single location and logically organized. In this manner, the "plan" required by ANILCA may be more evident. We have the following general recommendations regarding the organization and content under Affected Environment, the General Management Plan, chapter, and the Land Protection Plan. Following these comments are page-specific recommendations for additions or revisions and the identification of other State concerns.

GENERAL ORGANIZATION OF ACCESS ISSUES

The sections on access and transportation in the Affected Environment chapter and on pages 25-26 should be consolidated and should include a summary of the existing roads, trails, airstrips, waterways, and railways used at one time or another for transportation within the NPPr boundaries, including a brief discussion about the historical use, current use, and management status of each. The information in this section should include, but not be limited to, 17(b) easements and RS 2477 rights-of-way.

More specifically, the discussion of 17(b) easements reserved pursuant to Section 17(b) of the Alaska Native Claims Settlement Act (ANCSA) should include a description of the easement types and uses for which each easement was designated. A list of all 17(b) easements within the NPPr or on adjacent lands that terminate at the NPPr boundary should also be included. Enclosed is a partial list of the 17(b) easements that should be included in the plan. A more complete list and additional information about these easements may be obtained from the Bureau of Land Management (BLM) or an affected ANCSA corporation. We also suggest referencing the section of the GMP which will be addressing management of these easements.

The discussion of Revised Statute (RS) 2477 should briefly describe the nature of these rights-of-way and include a list of possible RS 2477 rights-of-way in the NPPr with available information regarding the current and historical use and the management status of each. The Alaska Existing Trail System, 1973 was asserted by the State in April, 1974 and therefore should be considered as a source of possible valid RS 2477 rights-of-way and included in the plan. (Pertinent portions are enclosed). A reference to the section of the plan addressing management of these rights-of-way is also recommended.

In addition to the proposed reorganized sections above, the document should contain a map of access patterns similar to the "Existing Condition" map on page 57 of the Bering Land Bridge GMP. It should include all traditional access routes, airstrips, easements, the above-referenced Alaska Existing Trails System and travelled waterways. This map would assist in meeting the requirements of ANILCA Section 1301(b) (4).

As in the Affected Environment chapter, the General Management Plan Chapter should also address 17(b) easements, RS 2477 rights-of-way, and non-exclusive use easements.

The section on 17(b) easements in the General Management Plan Chapter should reference the list of easements in the Affected Environment chapter. It should also indicate what additional restrictions, if any, NPS intends for these easements or state that policy for NPPr management does not apply to 17(b) easements.

The discussion of RS 2477 rights-of-way in the General Management Plan Chapter should similarly reference the rights-of-way listed under Affected Environment and include the following language:

RS 2477 (formally codified as 43 U.S.C. 923; enacted in 1866) provides that: "The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." The Act was repealed by P.L. 94-579 as of October 21, 1986, subject to valid existing claims.

The Denali National Park and Preserve is subject to valid existing rights, including rights-of-way established under RS 2477. The validity of these rights-of-way will be determined on a case by case basis. The following list identifies rights-of-way that the State contends may be valid under RS 2477:

(Insert list of potential RS 2477 ROW's)

A map illustrating the above list is found on page _____. This list and map are not necessarily all inclusive. Private parties or the State of Alaska may identify and seek recognition of additional RS 2477 rights-of-way within the (CSU unit). Supporting material regarding those rights-of-way identified by the State may be obtained through the Alaska Department of Transportation and Public Facilities, or the Alaska Department of Natural Resources.

Identification of potential rights-of-way on the list and map does not establish the validity of these RS 2477 rights-of-way and does not necessarily provide the public the right to travel over them.

Unless a cooperative management agreement between the State and NPS is developed, it is inappropriate to state that users of any rights-of-way must comply with applicable NPS permit requirements.

The requested discussion of non-exclusive use easements in the General Management Plan chapter should outline the NPS position on the use of these easements. Non-exclusive use easements may be reserved by BLM across Native allotments when trails or areas of prior established public use overlap an allotment application. The basis for use of non-exclusive use easements is established in the Regional Solicitor General's Opinion dated December 22, 1983 (attached). We suggest that NPS consider the benefits of requesting that BLM reserve an easement for important trails. The reservation of such easements in appropriate circumstances could protect long-standing public access to adjacent public lands and resources within the NPPr while retaining the allotment holders' property rights. Management questions associated with this land protection alternative should be addressed in this section. Pursuit of this option (and incorporating cooperative agreements or cooperative management with the State) would reduce

or avoid confrontation and expensive litigation over RS 2477 rights-of-way that overlap these easements.

Once the changes outlined above have been made, the Land Protection Plan should be revised accordingly to address all private or other non-federal land or interests within its authorized boundaries.

TRADITIONAL ACCESS

The State is concerned about the lack of discussion regarding traditional access in the Park extensions and preserve. The NPS should maintain the opportunity for traditional public access in Denali NPPr, including the use of roads, trails, waterways, and aircraft landing areas. Methods of transport, including the use of mechanized land, water, and air transportation, should be maintained. The State recommends (consistent with Congressional records) that a broad, liberal approach to access be used. If restrictions on traditional access appear to be necessary in Denali NPPr, they should be assessed by both the State and NPS. (See the Resource Management Recommendations (FMRs) provided to the NPS February 24, 1984 regarding the State's concerns about historical or current access that should be formally recognized as traditional access.)

Snowmachines have traditionally provided a means of access for trappers in areas of Denali Park extensions and Preserve. The GMP should indicate clearly that the use of snowmachines for establishing and checking traplines will continue until ADF&G determines that more restrictive access regulations are necessary for the continued viability of a given furbearer population.

The ANILCA guarantees traditional public access (Section 1109 and 1110), but provisions for this access are poorly addressed in the GMP. We request that NPS consult with the State before any access point or method is restricted to evaluate the effects on the public, including the effect on continued use of fish and wildlife. Provisions should be included in the GMP to address instances where the only feasible access to non-NPS lands is across Denali NPPr, so that subsistence, commercial, and recreational users may continue use of existing and feasible access routes and methods. NPS decisions or proposals regarding access should consider that restricting access may directly affect hunting, fishing, trapping, or other existing uses, subsequently creating a shift of activities to adjoining areas and potentially creating adverse impacts.

Regulating access methods can be an effective means of managing the use of fish and wildlife because use is strongly affected by access to those resources. Management intent for access which directly affects the ability of the public to utilize fish and wildlife resources should be carefully coordinated with the Boards of Fisheries and Game. In this matter, the GMP should reflect recognition of the Master Memorandum of Understanding (MOU) executed between ADF&G and NPS and the "Department of the

Interior, Fish and Wildlife Policy: State and Federal Relationships" (43 CFR 24). We recognize in turn that the NPS has the authority under the ANILCA and other statutes and regulations to close areas to the taking of fish and wildlife in cases of emergency, as well as for temporary and permanent closures (36 CFR 13.30 and 13.31) separate and distinct from access regulations.

Our primary concerns regarding motorized access are (1) that uses of the Park additions and Preserve (including methods and means of access) be consistent, as well as compatible, with the purposes of the unit as defined by the ANILCA; and (2) that restrictions on uses be implemented through appropriate procedures such as those detailed in the ANILCA Title XI, the ADF&G/NPS MOU, and 36 CFR Part 13 regulations. We do not support access methods and means that will result in detrimental impacts on fisheries and wildlife resources and we do not intend to encourage new access methods and locations. We are, however, concerned about retaining those opportunities provided by the ANILCA that are compatible with the unit's purposes and not detrimental to the resources. We are further interested in assuring proper involvement of affected agencies and persons in development of restrictions.

NORTHERN ACCESS

The NPS statement in the GMP that "there is currently no economic justification" for building a new northern access road is not justified. We request that the GMP address the findings of the following two reports, both of which provide substantial economic justification for the route: The Interior Transportation Study, prepared by the Alaska Department of Transportation and Public Facilities (DOT&PF) and a report by Thomas and Associates on Kantishna access for the Senate Transportation Committee. (Copies of pertinent excerpts from these two documents are enclosed.) If the NPS disagrees with the information contained in these reports, we request that the GMP state the basis for this disagreement.

Further indications of the need for a northern access route can be found in the Kantishna Hills/Dunkle Mine Study completed in March 1985 under the auspices of the Alaska Land Use Council. This study, in which NPS shared lead agency responsibility with the Alaska Department of Natural Resources (DNR), recommended that expanded mineral leasing in the Kantishna Hills area was a productive use of the land. The study stated that as mining is increased in the Kantishna area, a new mining access road would be required to handle the additional mining traffic between the Parks Highway and the Kantishna Hills. A northern access route would provide this. Yet the GMP states that "the Park Service does not support either an expanded mineral leasing program or a new mining access road". This statement is inconsistent with the Kantishna Hills/Dunkle Mine Study recommendations, which the NPS voted to approve. The GMP should be rewritten to be consistent with the report and should cite that, if increased

leasing occurs in the Kantishna area, additional access will be needed.

The plan needs further revision to address the October 18, 1984, statement of the U.S. Department of the Interior, Office of the Secretary, concerning the value of and need for a northern access route:

The principal actions involved in Denali over the next 10 years that should have been cumulatively recognized in the impact analyses of the proposed action in the GMP are: . . . the Kantishna Hills mining realities are that further transportation access has to be provided that area within the planning period under existing expectations . . . the State is pursuing another road north of the park (Healy to McGrath) . . . and the expected surge in park visitation is not all going to be fully accommodated at the south-side development . . .

A northern access route could accommodate a multitude of activities. It would promote tourism by making the Park accessible to more visitors; it would aid mining by providing new access to the rich mineral potential of the Kantishna area; and it would promote safety by relieving traffic on the existing Denali Park Road. Given the GMP's own figures, visitation will increase by another 250,000 people per year by the end of the 10-year planning period. Without adequate northerly access, current and NPS-proposed southerly access will not be able to accommodate all the visitors. The Greater Fairbanks Chamber of Commerce, several State agencies, and the tourist and mining industries view the northern access route as a potentially viable option for accessing State lands and providing the public with significant economic and recreational benefits. We request that the plan acknowledge that 1) there is substantial disagreement on this issue, 2) it would be premature to foreclose the option of developing a northern access route, and 3) the NPS and the State will work together to further assess northern access options.

In addition, the plan should acknowledge that the Stampede Trail, which is one of several alternative routes for a northern access road, is a possible RS 2477 right-of-way.

TRANSPORTATION CORRIDOR

We request that the GMP recognize the Alaska Railroad and the George Parks Highway as critical access links to the NPPr and interior Alaska. Together, the Railroad right-of-way and the Highway make up an important transportation corridor. We request that the GMP explicitly designate land immediately adjacent to and including the Railroad right-of-way and Highway as a "transportation corridor", consistent with the GMP's treatment of the park road. We further request that the GMP state NPS intent to manage this land as a transportation corridor.

PAGE-SPECIFIC COMMENTS REGARDING ACCESS

Pages 25-26 - We request that the following language (modified slightly from the draft Bering Land Bridge GMP, page 3-25) be included in this section:

Routes and new modes of access for subsistence will be analyzed in terms of potential for impacts on the resources (vegetation, wildlife, soils, etc.) of the unit and upon other uses of the area. New modes of access that originate from technological advances might be permissible in the unit if they do not create unacceptable impacts upon the resources and uses of the unit.

Although not specifically addressed, access to and use of existing materials sites within or adjacent to the Denali NPPr should not be restricted by the GMP. These materials sites are identified on the attached "Materials Sites" maps. The GMP should specifically recognize the possible future needs for road realignment and sand and gravel extraction on highways which lie within or adjacent to the NPPr boundaries.

Page 25, paragraph 5 - Clarification is needed regarding what other forms of access will be studied for feasibility and how public and State participation in the studies will be accomplished.

Page 26 - The paragraph on RS 2477 rights-of-way should be replaced with the language recommended on page 4 of this letter.

Page 26, paragraph 1 - We request clarification of what the right-of-way permit requirements are. Unless a cooperative management agreement between the State and the NPS is developed, it is inappropriate to state that users of any valid right-of-way must comply with NPS permit requirement.

Page 41 - The summary should acknowledge potential RS 2477 rights-of-way, even though specifics of the corridors and actual acreages affected are not known at this time. The proposed method of protection should also reflect these rights-of-way.

Page 45 - The table should acknowledge that there is an undetermined amount of land that is or may be encumbered with RS 2477 rights-of-way or 17(b) easements. This could be added as a footnote to the table.

Page 45 - Land Status Map - This or a similar map should include the various RS 2477 rights-of-way and 17(b) easements identified in the attachments. Additionally, the legend to this map should refer to a document that will be available at various NPS offices where the reader can find the exact

location of the 17(b) easements on more detailed maps than those included in the plan. The Department of Interior manual (601 DM 4) requires that this information be made available. The legend to the map should also mention that there may be additional trails that might be asserted under RS 2477 in the future. It should also include a statement that, since Native conveyances have not been completed, the total list of 17(b) easements in the NPPr is not yet known.

There should also be a Land Protection Priorities map which addresses the priority for protection of 17(b) easements and RS 2477 rights-of-way, as well as the parcels identified in the appendix.

Page 50 - The top of this page should state that if a trail is determined to be a valid RS 2477 right-of-way, then Title XI does not apply.

Page 55, paragraph 3 - The GMP references a possible road corridor to Kantishna that would follow the Stampede Trail. It should be noted that such a route is one of several possible locations for a Kantishna access route. Identified alternative routes vary in length from approximately 80 miles to approximately 120 miles. Updated cost estimates for development of those routes range from \$85 million to \$125 million.

The Interior Alaska Transportation Study has been completed. The reference to its "draft" should be deleted.

Page 55, paragraph 4 - We request that this paragraph be revised as follows:

The State of Alaska has negotiated the transfer of the Alaska Railroad from the federal government to the State. As part of the transfer the Secretary of Transportation has conveyed to the Alaska Railroad Corporation, a public corporation of the State, a not less than 200 feet exclusive-use easement along the railroad to be used for "railroad purposes" and also for "such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act," January 14, 1983, 45 USC § 1203.

In addition, we request that the Railroad easement be cited in the Land Protection Plan (LPP) as a non-federal interest and that the GMP explicitly indicates NPS intent with regard to its management.

Pages 63-67, Recommendations - RS 2477 rights-of-way and 17(b) easements should be addressed here or in Appendix 1, including when and how a future tract-by-tract and trail-by-trail evaluation will be made, with an explanation

about how the State and public will be involved in these decisions.

The section addressing RS 2477 rights-of-way should include a discussion of non-exclusive use easements as a method for protecting RS 2477 routes. The management intent for RS 2477 rights-of-way should be consistent with the language proposed above.

PROPOSED MANAGEMENT ZONING

We are concerned about zone designations designed for use outside of Alaska being applied to Alaska park system units. In previous discussions with the NPS, particularly concerning the Yukon-Charley Rivers GMP, we had difficulty determining if management intent related to the designations was consistent with the ANILCA and associated congressional intent. In this section of the Denali GMP the "natural zone" designation is once again presented without adequate explanation. We request that either the intent be clarified or the zoning be revised, particularly for the Park extensions and Preserve. (See page 55, paragraph 1 of the approved Kenai Fjords GMP for an example of how this section can be clarified.)

We also request that the first sentence under Natural Zone on page 9 be revised to "Lands in this zone are managed to protect the natural resources and features and to maintain the existing natural processes." Congress recognized the human role in the ecosystem and intended that existing activities would continue, provided significant damage to resources is avoided. The ANILCA Section 202 clearly states that the unit "shall be managed . . . to protect" various resources and features. The revision requested here makes this section more consistent with Congressional intent.

We also request "Lands and waters in this [natural] zone" be revised to omit waters. Water is managed by the State except within the original (pre-Statehood) Park boundaries. Consequently waters and submerged lands beneath navigable waters should be included in the Special Use Zone.

In addition, we urge that the designation for the Alaska Railroad right-of-way, the George Parks Highway, and land immediately adjacent to them be changed from "natural" zone to "development" or "special use" zone. These two rights-of-way are clearly inappropriate in a "natural zone" designation.

NATURAL RESOURCE MANAGEMENT

MANAGEMENT OBJECTIVES

We are particularly concerned that the Management Objectives were not subject to the public participation requirements for GMPs, yet they are used as the basis for management decisions. We believe that the management objectives should be located in the beginning of each plan in order to receive full public review.

The objectives are included as an Appendix and, consequently, do not receive appropriate public attention considering their importance. The previously published Statement for Management which contained the original management objectives is not the GMP required by the ANILCA Section 1301.

RESOURCE MANAGEMENT PLANS (RMP)

The draft GMP lacks the detailed natural resource management programs required by the ANILCA Section 1301. Review of and participation in the development of the proposed substituted and supplemental Resource Management Plans (RMP) is important to the State. We request that the final GMP include both an approximate time table for when these RMPs will be available for review and an outline of the review process, including provisions for public and State participation as required by the ANILCA Section 1301.

TRAPPING

Current NPS restrictions on access and trapping are preventing traditional uses of the resources. As a result, historic traplines have been reduced or eliminated, as has a source of income for trappers. Restrictions on snowmachine use and aircraft should be eased to allow their continued use for trapping in the Park extension and Preserve.

We request that references to trapping categories (e.g., sport and subsistence) in the GMP be clarified or deleted. The Board of Game has not found it necessary to establish categories of trapping within Alaska. The State recognizes the ANILCA legislative history (Congressional Record-Senate, August 18, 1980, S11136) indicating congressional intent that trapping which "becomes a business with employees paid to support the trapping operation" is not in keeping with intent of the Act. We believe the intent language of the Act provides sufficient basis to manage trapping in the Denali Park extension and Preserve and are confident that the NPS and State can coordinate in efforts to monitor the furbearer resources to assure their health and welfare.

FISHERIES

We request that the following fishery resource information from the State's RMRs for Denali NPPr (February 24, 1984) be included or addressed in the wildlife management section of the final GMP:

- (1) Important fishery resources include king salmon, coho salmon, chum salmon, sheefish, and whitefish. The ADF&G may pursue necessary fisheries improvement projects for these species. We request that management intent to coordinate in data collection and project assessment be included in the GMP.
- (2) Major fall chum spawning areas are located in the Toklat River with a majority of the spawning occurring just

downstream of the northern boundary of Denali NPPr. King and chum salmon spawning areas are located in the Bearpaw River, Moose Creek, and Foraker River, tributaries to the Yukon drainage. King and chum salmon are distributed in the Kantishna River. Also king, coho, and sheefish spawning has been documented in portions of Highpower Creek, tributary to the Kuskokwim River drainage. During past aerial surveys, it appeared that extensive stream bed siltation occurred over portions of the Bearpaw River and Moose Creek which may be the result of local mining operations. We request that the GMP include management intent to coordinate with the ADF&G in studies and project assessment regarding fisheries values, as well as impacts of developments.

- (3) Hot springs are located in the upper Kantishna River basin and between the Diamond and Toklat Rivers within the Preserve. ADF&G investigations may be necessary to determine their suitability for support of fisheries improvement projects. Sport fishing demands for lake trout in Wonder Lake associated with Preserve development may necessitate fisheries rehabilitation efforts and/or lake stocking in cooperation with the ADF&G.
- (4) Limited subsistence fishing for salmon and whitefish occurs in Muddy River, outlet to Lake Minchumina, Birch Creek, Sprucefish Lake, Kantishna River, Bearpaw River, and Highpower Creek. Salmon production from spawning areas inside Denali NPPr contributes to Yukon and Kuskokwim commercial and subsistence fisheries.

COOPERATIVE MANAGEMENT AGREEMENTS

A section should be added to the "General Management Plan" about cooperative management agreements. The section could be patterned after the discussion on pages 96-97 of the draft Kobuk Valley GMP or pages 30-31 of the Wrangell-St. Elias draft GMP. A list of possible cooperative management agreements should include among other things, agreements for navigable rivers and RS 2477 rights-of-away.

NAVIGABILITY

The GMP proposes to work with the State to mitigate any adverse human activity on navigable rivers (pages 9-40). The State is willing to consider NPS management proposals for management of the rivers, but only upon application by the NPS to DNR Division of Land and Water Management.

The plan should state that the NPS will formally request the Bureau of Land Management (BLM) to complete navigability determinations for all waterbodies within the NPPr. If other waterbodies are determined to be navigable, they should be identified on future NPS maps. DNR recommends the following revisions to address these concerns:

Page 9-40 - The General Management Plan section of the plan should include a section titled Navigable Waters. The section should include the following paragraph:

At the time of Statehood, the State received ownership of the beds of navigable waters to the "ordinary high water" mark. At present, the (name of waterways) have been determined to be navigable by the Bureau of Land Management. Navigability determinations have not been made on other rivers within the Park extensions and Preserve. The National Park Service may seek cooperative agreements with Department of Natural Resources concerning the management of the submerged lands under navigable waters. The National Park Service may make requests for the use of these lands to the appropriate State agencies.

Page 41 (summary) and 45 (table) - The text and table should acknowledge the unresolved navigability status of many of the waterbodies in the NPPr.

Page 47 - The map should identify the rivers within the NPPr that have been determined to be navigable. Additionally, the legend to the map should identify the uncertain status of lands in other drainages. At a minimum, a footnote should be included in the legend of this map indicating the possibility that other rivers in the NPPr may have a status similar to the rivers already determined to be navigable once navigability determinations are made.

WATER RIGHTS

Federal reserved water rights are created either expressly or by implication when federal land is withdrawn from entry (by Congress or other lawful means) for federal use. It is the State's position that federal water rights, both instream and out-of-stream, are either generally or specifically reserved for the primary purposes of the reservation. Characteristics of a federal reserved water right include:

- 1) it may be created without actual diversion or beneficial use,
- 2) it is not lost by non-use,
- 3) its priority date is from the date the land is withdrawn for the primary purpose(s) involved,
- 4) it is the right to the minimum amount of water reasonably necessary to satisfy both existing and reasonable foreseeable future uses of water for the primary purpose(s) for which the land is withdrawn. Water for secondary purposes must be obtained under State law, AS 46.15.

Discussion at the March, 1985 meeting of the Alaska Water Resources Board emphasized the importance of two aspects of federal reserved water rights. First, they are recognized only for the primary purposes for which the land was withdrawn, and second, they apply only to the minimum amount of water reasonably

necessary to satisfy the primary purposes of the withdrawal. Legislation establishing the withdrawal of land is critical, because it establishes the priority date for the federal reserved water right and often expressly states the primary purposes of the withdrawal. All of these aspects of federal reserved water rights--the priority date, the primary purposes, and the minimum amount of water reasonably necessary to maintain the primary purposes--are important concepts that should be reflected in the plan. We recommend the following language on federal reserved water rights:

The water resources of the Denali National Park and Preserve will be managed to maintain the primary purposes for which the unit was established. The primary purposes of this NPPr are _____, as cited in the following legislation establishing this national park and preserve (reference to legislation). Water for secondary purposes and all other uses within the NPPr will be applied for under AS.46.15. Specific water resource requirements for the primary purposes of the NPPr will be identified and the minimum amount of water reasonably necessary to maintain these purposes will be quantified in cooperation with the State of Alaska. Once federal reserved water rights have been quantified, the National Park Service will file this information with the State in accordance with State laws.

Pages 41-67 - Although addressing the water appropriation issue is different from addressing inholdings within the NPPr, some mention of these "non-federal interests" within the unit boundary should be made in the Land Protection Plan. Portions of the language suggested above could be used. NPS water needs above and beyond the minimum amount reasonably necessary to maintain the primary purposes of the unit should accordingly not be considered a federal reserve right or interest.

MANAGEMENT OF THE WATERCOLUMN

We request that the GMP discuss the management of the watercolumn of waterbodies in the National Park extensions and Preserve. These watercolumns remain subject to management authority by the State, although the State may choose to cooperatively manage such areas with the NPS on a case-by-case basis.

MINERAL MANAGEMENT

The GMP should reflect that the Alaska Department of Environmental Conservation (DEC) has offered to work with the NPS concerning implementation of the Kantishna Hills - Dunkle Mine Study recommendations and expansion of mining facilities, including waste water and solid waste disposal improvements. The plan should also be corrected (page 34) to note that DEC has not waived the National Pollution Discharge Elimination Systems

(NPDES) certification process vis-a-vis placer mine discharges. In fact, DEC has certified some current NPDES permits.

TEMPORARY FACILITIES

We disagree with the NPS contention that the erection of temporary facilities for taking fish and wildlife "would constitute a significant expansion" and "would be detrimental to the purposes for which the Preserve was established." Hunting and fishing are purposes for which the Preserve was established and related facilities have occurred historically in the area. It is also not clear why NPS has determined temporary facilities related to hunting and fishing constitute a detriment while temporary facilities for hikers and campers do not. These facilities are permitted in the ANILCA Section 1316 and we find no data to support total prohibition. We disagree that facilities and equipment related to the taking of fish and wildlife is a significant expansion and we oppose the proposed prohibition. We further request that provisions be made for existing facilities to be replaced should they be destroyed or vandalized.

FISH, WILDLIFE, AND HABITAT

We request that the GMP clarify that current manipulation programs in Denali NPPr will be allowed to continue. The ANILCA does not prohibit existing programs nor necessary fisheries development programs, including rehabilitation. We do understand congressional intent that manipulative management should be prohibited when manipulations are "to achieve maximum utilization of natural resources" and when solely "for the purposes of maintaining subsistence uses." We also agree that careful evaluation of resources use and conditions should precede any new manipulation and request that management intent in the GMP be clarified accordingly.

The following specific comments on the draft GMP are offered to clarify the State's concerns for fish, wildlife, and habitat management. The comments are organized sequentially (not by priority):

Page 13, paragraph 1 - We request clarification of "all of the big four Alaskan wildlife." The discussion of key species on pages 31-33 only covers grizzly bears, caribou, and wolves.

Page 28, paragraph 2 - Delete "the clear preservation". Congress mandated protection of habitat and populations and provisions for certain opportunities. "Preservation" was clearly not the intent of Congress.

Page 29, Wildlife Management, paragraph 2 - First sentence should include "trapping" as a permitted activity in the Preserve and Park additions.

Paragraph 3 - We suggest the first sentence be clarified as follows: "The State of Alaska, through the Boards of Fisheries and Game, is responsible for establishing fishing, hunting, and trapping regulations for the park additions and preserve, consistent with provisions of the ANILCA. The NPS will cooperate with the State wherever possible in establishing those regulations in a manner that is compatible with management goals and objectives." In general, this paragraph is an appropriate and commendable explanation of the management responsibilities in Denali NPPr.

Page 31, Bears - This section should include language explaining that if it is necessary to destroy a bear, State "Defense of Life and Property" provisions will be followed. We therefore request that the NPS include recognition of State law (5 AAC 81.375) requiring people to report the taking of animals under the "Defense of Life and Property" stipulations. The ADF&G recognizes that in isolated cases serious injury or death of humans may be avoided if firearms are used judiciously in deterring bears.

Page 31, last paragraph - This discussion misrepresents the status of the brown bear population using Denali NPPr, as does the discussion on page 32 of the draft GMP for Katmai NPPr. Although sport hunting is not permitted within park boundaries, bears were subject to harvest prior to establishment of the Park extension and Preserve, are subject to some poaching in the Park, and are subject to legal harvest when they are outside the Park. We strongly urge rewriting this paragraph to recognize current data on bear populations and the associated management implications.

Studies and experience by both the NPS and the ADF&G support the concept that relocating bears to less populated areas is not a viable alternative to reduce bear/human encounters. However, we disagree with the rationale presented in this paragraph. The first point is valid (Miller and Ballard, 1982, Journal of Wildlife Management) but the second should be deleted. The main reason that the ADF&G does not recommend relocation of problem bears is that studies indicate they return in many cases. There are no data available to support suspected genetic or social deterioration of the population. We know of no scientific data that support the statement that removal will lead to "an unnaturally selected" population.

Furthermore, the recent cessation of sport hunting within the Park additions will probably have no impact upon the genetic make-up of the bear population. The bear population of Denali NPPr is not isolated or pristine. To resolve our concerns with this paragraph, we suggest the entire second half of this paragraph be deleted or replaced by a modification of the last sentence: "The Park Service will not relocate problem bears, consistent with the State of Alaska relocation policy which . . .".

Page 32, Caribou - The discussion of caribou should reflect that the herd is increasing. The present estimated number of 2,600 is believed to be a doubling or tripling of the population, which may have only been 800 at the lowest point a few years ago.

We also note that Singer has preliminary results from the ongoing caribou studies that bear predation is significantly affecting the survival of caribou calves. This should be clarified.

Page 32, Wolves, paragraph 1 - Since wolf density is low, it may also be affected by changes in prey densities, weather, and interspecific competition. The reference to their role as "easily altered by man" should be modified accordingly.

Page 33, Wolves, paragraph continued from page 32 - We request the NPS clarify what is defined as "natural predator/prey relationships." Congressional intent specifically provides for hunting and trapping in the Park extension and Preserve. This paragraph should be rewritten to reflect NPS intent to pursue closures on wolf trapping cooperatively with the State and only when it can be demonstrated that wolf populations may significantly be impacted or declining and a cessation of trapping will significantly reduce or eliminate that decline. The NPS should indicate in the GMP that predator/prey balances are dynamic; that moose or caribou per wolf ratios fluctuate widely, depending on a number of variables; and that trapping is only one of these many variables. The NPS should recognize and include intent to utilize the State's regulatory process when any changes are desired in trapping or hunting regulations, as agreed in the MOU between the ADF&G and the NPS.

Page 44, paragraph 4 - The correct section citation is 103(c).

Last paragraph - The objective "to preserve" is inconsistent with the ANILCA mandates to "protect," "interpret," and "provide"; we request its deletion.

Page 57, Regulations - Regarding the Alaska Anadromous Fish Act, insert "of the ADF&G" after "the commissioner".

Page 64, paragraph 4 - Guiding of sport hunters is controlled by the State's guide licensing board; a landowner would not necessarily receive any benefits from a guide operating a few hunts in his vicinity.

Page 81, Moose - Reference is made throughout the draft GMP to Singer and Beatties' study of wildlife disturbance along the park road corridor, although that report is apparently unavailable for review. Because a number of changes from current management practices are based on conclusions drawn from this study, copies of it should be made available for

reviewers. We cannot verify the studies or support intended management changes until then.

Page 116, paragraph 3 - Pink and sockeye should be included in the salmon species listed and rainbow trout and lake trout should be addressed in this section.

Page 116, paragraph 5 - In the first sentence, "In general" and "less abundant" need to be clarified.

Page 127, We request deletion of the phrase "like all other NPS units" from the first sentence under Congressional Intent. Congress clearly recognized the uniqueness of the additions to the national park system established by ANILCA, the most recent and authoritative legislation on this matter. We also ask that the Congressional intent in the second paragraph be corrected to include the complete quote; as currently quoted the directive to continue opportunities for subsistence uses has been omitted.

Page 128, paragraph continued from Page 127 - Subsistence harvests, including trapping, are permitted in the Park extension. This paragraph should be corrected accordingly and be made consistent with the discussion on Page 152.

Page 128, paragraph 1 - "Public lands" should be clarified as federal or NPS land.

In summary, the discussions currently included in the Wildlife Management section (page 29) and others throughout the GMP do not adequately address fisheries and wildlife management intent, direction, issues, or programs. We request adoption by the NPS of the following language in this section to clarify management intent and policies:

The National Park Service (NPS) is mandated by the Alaska National Interest Lands Conservation Act (ANILCA) and other laws to protect the habitat for, and populations of, fish and wildlife within the Denali Park and Preserve [ANILCA Section 202(3)]. The NPS management of fish and wildlife will generally consist of management of the human uses and activities which affect such habitat and populations, rather than the direct management of fish and wildlife resources.

The Alaska Department of Fish and Game (ADF&G), under the constitution, laws, and regulations of the State of Alaska, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the state, except within the original Denali Park boundaries. Within conservation system units, including Denali Park extension and Preserve, State management of fish and wildlife resources is required to be consistent with the provisions of the ANILCA.

The NPS and the State of Alaska will cooperatively manage the fish and wildlife resources of the Denali Park additions and Preserve. A memorandum of understanding between the NPS and the ADF&G (see Appendix G) defines the cooperative management responsibilities of each agency. The 'Department of the Interior, Fish and Wildlife Policy: State and Federal Relationships' (43 CFR 24) further addresses intergovernmental cooperation in the protection, use, and management of fish and wildlife resources. The closely related responsibilities of protecting habitat and wildlife populations and providing for fish and wildlife utilization require close cooperation of the ADF&G, the NPS, and all resource users.

Sportfishing is an allowable use in the Park and Preserve, subsistence hunting and fishing and trapping are allowable uses in the Park additions and hunting, fishing, and trapping are allowed in the Preserve. The ANILCA Section 815(1) requires that such harvest activities remain consistent with maintenance of healthy populations of fish and wildlife in the Preserve and natural and healthy populations in the Park.

The State of Alaska, through the Boards of Game and Fisheries, establishes fishing, hunting, and trapping regulations for the Denali Park additions and Preserve, consistent with provisions of the ANILCA. The NPS will cooperate with the State wherever possible in establishing those regulations in a manner compatible with park and/or preserve management goals and objectives.

The ANILCA Title VIII authorizes the State to manage the taking of fish and wildlife for subsistence purposes on federal lands if a State program is implemented which satisfies certain criteria.

Customary and traditional subsistence uses are recognized as an integral part of natural systems, as indicated by the legislative history of the ANILCA:

'The NPS recognizes, and the Committee agrees, that subsistence uses by local rural residents have been, and are now, a natural part of the ecosystem serving as a primary consumer in the natural food chain. The Committee expects the NPS to take appropriate steps when necessary to insure that consumptive uses of fish and wildlife populations within the NPS units not be allowed to adversely disrupt the natural balance which has been maintained for thousands of years (Senate Report 96-413, p.171).'

Within Denali NPPr the NPS ' . . . may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral or faunal protection, or public use or enjoyment'

(ANILCA Section 1313). Additionally, the NPS ' . . . may temporarily close any public lands . . . , or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such populations' (ANILCA Section 816(b)). Except in emergencies, all such closures must be preceded by consultation with appropriate State agencies. If it becomes necessary to restrict the taking of populations of fish and wildlife in Denali NPPr, non-wasteful subsistence uses are accorded priority over the taking of fish and wildlife for other purposes.

The State has developed resource management recommendations containing management guidelines and objectives that were generally developed for broad regions. Therefore, some of the guidelines and objectives may not be applicable to the Denali Park additions and/or Preserve. The master memorandum of understanding indicates that the NPS will develop its management plans in substantial agreement with State plans unless State plans are formally determined incompatible with the purposes for which the Park extensions and Preserve were established.

Habitat and animal population manipulation will not be permitted within Denali NPPr except under extraordinary circumstances and when consistent with the NPS policy. Congressional intent regarding this topic is presented in the legislative history of the ANILCA.

In recognition of mutual concerns relating to protection and management of fish and wildlife resources, the NPS and the ADF&G will continue to cooperate in the collection, interpretation, and dissemination of fish and wildlife data. The NPS will continue to permit, encourage, and cooperate with the ADF&G in conducting research projects that are compatible with the purposes of the Park and/or Preserve. The NPS will ensure access for State officials for purposes of conducting research and managing fish and wildlife resources.

The NPS informational programs will inform visitors about the occurrence of human use activities in the Park additions and Preserve in order to minimize user conflicts. Information will also be provided to visitors about ways to avoid or minimize adverse effects on fish and wildlife populations and their habitat.

The NPS Resources Management Plan for the Denali Park and Preserve will be developed and subsequently revised in cooperation with the State and is anticipated for initial completion by (date). The plan will be reviewed by the public and any major change in direction, philosophy, or goals is subject to public involvement requirements of the ANILCA Section 1301. The plan will describe in detail the

scope of scientific research and resource management methods that will be cooperatively employed so that the NPS has a better understanding of park and preserve resources for utilization in future resource-related decision-making. The highest priorities of the resource management plan over the next 5 to 10 years follow." [A list should be included here accompanied by appropriate discussion.]

LAND PROTECTION PLAN

The Land Protection Plan should include a rough estimate of the cost of implementation. These figures should then be compiled for all nine GMPs and statewide recommendations for acquisition reconsidered based on this information. Until this is done, it will be unclear how realistic the acquisition recommendations are for the various NPS units.

In light of budget constraints, we question the viability of the emphasis on acquisition as a preferred method of protection. Greater emphasis on other methods such as cooperative agreements and easements would be more cost effective, increase NPS flexibility, and likely enhance working relationships with local landowners.

In discussions of future land acquisitions or boundary changes, the GMP defines areas and presents justification for inclusion of candidate lands into the NPPr. However, nowhere do they stipulate whether those lands are candidate areas for park, preserve, or wilderness designation, even near boundaries. This intent may have major ramifications because of potential access, resource use, and other management consequences. We suggest that each of the tracts that is being considered have an accompanying sentence stipulating what status will be designated and what management intent will be applied to that particular parcel if acquired. We request further opportunities to review this intent prior to adoption of the final GMP.

The Land Protection Plan proposes to acquire mineral interests in 1300 acres of unpatented claims. Mining in the parks is allowed by law and regulated under 36 CFR Part 9, which is designed to allow mining and protect other park resources. Therefore, the need to acquire these mineral interests is questioned. Subject to the results of validity determinations, the cost of acquisition may exceed the financial capabilities of the NPS. Additionally, unlike lands to be acquired for their surface estate, it is difficult to appraise the subsurface values to achieve an equitable settlement.

Finally, we request that the GMP require that mineral validity determinations be performed by the BLM or the Bureau of Mines. We believe NPS would have difficulty providing the objectivity necessary to adequately assure the protection of the valid existing rights of holders of unpatented mining claims.

Land Exchange

The proposed Wolf Township-Dunkle Township land exchange will serve both State and federal interests, provided the State acquires full management rights for the Dunkle Township and retains its valid existing access rights on the Wolf Townships. The State is concerned that any land exchange involving the Dunkle Township not encumber the area with restrictions that would delay or jeopardize mineral development. The GMP should clarify that one of the purposes of the proposed exchange is to provide for mineral development.

Page 44, paragraph 3 and Page 50, Paragraph 1 - The State does not intend to donate land to NPS. Therefore, references to State donations should be deleted.

Page 46, - The land status map following page 46 should be revised to show that the entire township is selected by the State for T11S, R21W, F.M. (Muddy River).

Page 51, Regional Influences (Illustration) - The map does not accurately reflect the course and location of the Susitna River, the location of the proposed Gold Creek Railroad spur, or the proposed Susitna Hydroelectric Project area. This could lead readers and reviewers to improper conclusions as to their influences on the Denali NPPr.

Page 55-56, Utility Development - The commentary in this section presents a reasonable discussion of APA's plans concerning the Susitna Hydroelectric Project and Interties. However, it is unlikely that construction of Susitna will begin before 1989. In addition, it should be noted that the APA has received numerous requests from residents for electrical service along the Parks Highway adjacent to the NPPr boundary. Several tourist-oriented facilities and residents now operate diesel generators to provide for their electrical needs. We request that the GMP provide opportunities for sufficient easements and rights-of-way along the highway so that these facilities can be interconnected and the small diesel systems phased out. This would allow the replacement of fossil fuels as an energy source with renewable resources from the Susitna Hydroelectric Project.

Page 63, paragraph 5 - NPS misinterprets the Tanana Basin Area Plan when it suggests "exchange or relinquishment of approximately 95,000 acres is fully supported by the State of Alaska". The Tanana Basin Area Plan states that the planning team "recommends that the Stampede Trail area (three townships) be exchanged with the Park Service". Recommendations were not made in the area plan for relinquishments, only for exchange. The first sentence in this paragraph should be rewritten to reflect this.

Page 63, paragraph 4; Page 83, paragraph 5; and Page 97, paragraph 2 - The "Wolf Townships" are currently closed to caribou sport hunting and have been since 1977. Inclusion of this area in the Park would not affect this situation nor result in the Denali caribou herd increasing. See our general comments requesting deletion of the misleading references to sporthunting.

Page 64, paragraph 2 - The reference to donation of State lands contiguous to the park boundary should be deleted. The State does not intend to donate land to the NPS. Furthermore, the NPS can only acquire this State land by exchange under its authority in ANILCA section 1302(h). In addition to this change, this section should mention the ongoing negotiations between the State and NPS for exchange of these lands for lands within the NPPr.

Pages 63, 83, and 97 - We request deletion of statements in the GMP (pages 63, 83, and 97) that one reason for inclusion of the Wolf Townships area into park status is to protect the caribou herd from sport hunting. The sport hunting for caribou has been closed in that area since 1977, and studies have indicated predation is a serious limiting factor, not hunting. Through the regulatory process of the Board of Game and management by the ADF&G, this area can continue to support viable game populations in preserve status.

WILDERNESS SUITABILITY

A section needs to be added to the "Wilderness Suitability Review" that lists the criteria used by the NPS to determine which areas are suitable for wilderness. One criteria should be that areas with ATV use easements are unsuited for wilderness (see Gates of Arctic GMP). Once NPS identifies its criteria for wilderness suitability, the NPS should reevaluate the wilderness suitability map by overlaying the map on page 71 with a map showing the possible RS 2477 rights-of-way and 17(b) easements that have been provided by DOT/PF and DNR. Areas that overlap with these easements or trails should be excluded from the wilderness suitability map.

The map on page 71 also needs to be clarified to indicate that the Alaska Railroad right-of-way, the George Parks Highway and land immediately adjacent to them are not suitable for wilderness designation.

Page 94, paragraph 1 and 3 - These paragraphs state that 70 percent of the Kantishna Hills and 85 percent of the Dunkle Mine study areas were found suitable for designation as wilderness. The wilderness suitability map on Page 71 shows the entire area suitable. This discrepancy should be corrected in the final GMP.

Many of the comments included in this letter are the same as our comments on the other draft GMPs. Unless there is a reason why the response to these comments should be different, they deserve a consistent response on a Statewide basis.

Thank you for the opportunity to review this draft General Management Plan for Denali NPPr. If we can be of any assistance in clarifying our comments, please contact this office. The State looks forward to resolution of our concerns prior to adoption of the final plan.

Sincerely,



Sally Gibert
State CSU Coordinator

ATTACHMENTS

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