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

Dear Mr. Evison:

The State has completed its review of the National Park Service (NPS) draft General Management Plan (GMP) for the Cape Krusenstern National Monument (NM). The greatest deficiency of this and the other northwest area GMPs is that management intent regarding transportation and access, valid existing rights, and natural resources is lacking or inaccurate. Oftentimes, the GMP does not adequately address issues of State concern, or provide enough specific information to adequately assess the proposed actions. Specific information which is presented often lacks citations of reference sources.

Due to the lack of detailed natural resource management intent contained in these plans, review of the subsequent Resource Management Plans (RMP) will be particularly important. As we have noted for other GMPs, 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.

These problems were previously noted in the State's comments on the draft Statements for Management for these areas and we are disappointed that there has been little improvement. As with all other GMPs, we are particularly concerned that the Management Objectives in those documents were not subject to the same public participation requirements for GMP's yet are used as a basis for management decisions. Inclusion of the objectives as an Appendix downplays their significance, consequently discouraging appropriate public review.

The remainder of our comments are grouped into three major categories, Access and Transportation (page 2), Natural Resource Management (page 9) and remaining comments (page 21). Therefore the order of our comments does not reflect their importance. We realize that some of these comments may appear repetitive. This is due in part to the organization of the GMP itself, which contains discussions of selected topics in different contexts throughout the document.

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ACCESS AND TRANSPORTATION

We recommend that 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 Preferred Alternative, 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 should be consolidated and should include a summary of the existing roads, trails, airstrips, and waterways used at one time or another for transportation within the NM boundaries, including a brief discussion about the historical use, current use, and management status of each. The Noatak to Kivalina trail, the Kotzebue to Barrow 500-mile trail, and the Kakagrak Hills airstrip and connecting trails should be specifically addressed. The information in this section should include, but not be limited to 17(b) easements, RS 2477 rights-of-way, and the Noatak to Coast Winter Trail.

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. (Much of this discussion is already included on page 2-50.) Enclosed is a partial list of 17(b) easements that should be included in the existing discussion. A more complete list and additional information about these easements may be obtained from the Bureau of Land Management (BLM) or 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 NM 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.

The discussion in the Affected Environment section about the Kotzebue-Barrow 500-mile trail and the Noatak to Kivalina trail should state that the routes are possible RS 2477 rights-of-way. The Kakagrak Hills airstrip and connecting trails should be identified as an important access site to State tidelands four miles to the west. Attached is some historical information about several of the potential RS 2477 trails in the monument.

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 5 of Bering Land Bridge GMP. It should include all traditional access routes, airstrips, easements, the above-referenced Alaska Existing Trails System, and navigable and other travelled waterways. This map would assist in meeting the requirements of ANILCA Section 1301(b)(4).

As in the Affected Environment chapter, the Preferred Alternative should also address 17(b) easements, RS 2477 rights-of-way, and non-exclusive use easements. The Kotzebue to Barrow 500-mile trail, the Noatak to Kivalina trail, and the Kakagrak Hills airstrip should also be discussed.

The section on 17(b) easements in the Preferred Alternative 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 NM management does not apply to 17(b) easements.

The discussion of RS 2477 rights-of-way in the Preferred Alternative should similarly reference the rights-of-way listed under Affected Environment and include the following language:

"The National Monument is subject to valid existing rights, including rights-of-way established under Revised Statute (RS) 2477 (43 U.S.C. 932). The State may identify and assert additional RS 2477 rights-of-way within the unit.

"The State has authority to manage public rights-of-way and may do so cooperatively with the underlying fee landowner. The National Park Service, as landowner, may petition the State to disclaim an interest in or vacate any rights-of-way and/or may enter into a cooperative management agreement with the State."

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 Preferred Alternative 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 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 NM&P 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.

PAGE-SPECIFIC COMMENTS

Page 1-5, item 7 - The consideration of electrical generation for the Red Dog Mine needs further discussion. The land exchange should also include the possibility of adding an overhead electric transmission line in the road right-of-way in the event that power is to be transmitted between Kivalina, Noatak, and the Red Dog Mine. The corridor should be wide enough to allow, as far as practical, tangent line construction to minimize visual impacts from excessive guying.

Early consideration of possible routes will insure that areas containing cultural resources are not included in a corridor reserved for road and transmission line construction.

Page 2-25 and 2-26 - This section describes the moist tundra which characterizes the majority of the vegetation in the monument. This consists of extensive cottongrass tussocks with mosses and lichens between them and "hiking through tussocks is slow, wet, and usually strenuous." The difficult foot travel should also be addressed in the visitor use and access sections in order to make that section more understandable.

Pages 2-49 through 2-51, Access - As noted earlier, this plan should include a map of these existing trails and explanation of whether they can be used by the general public. There is an inconsistency between indications that the BLM allows ATV use on its easements and the GMP intent on page 3-22, General Access Provisions, that off-road vehicles cannot be used for either subsistence or recreational use within the monument. This should be

clarified and noted on the above mentioned chart, e.g. Kotzebue-Kivalina Trail and BLM easements. Also page 4-17 has a map, External Influences, indicating a utility corridor runs along the southern tip of the monument. Management intent regarding access within or adjacent to this corridor also needs to be addressed.

Page 2-50, paragraph continuing from 2-49 - This paragraph references the trail along the coast between Kivalina and Kotzebue and states that it could be an RS 2477 right-of-way. The language in this section implies that there is some doubt regarding the eligibility of the route as an RS 2477 right-of-way. It should be revised to acknowledge that this route is definitely identified in the Alaska Existing Trails Systems (1973) inventory and as such is an RS 2477 assertion.

Page 2-50, Circulation in the Monument - This paragraph states that ATVs can be used along the Kotzebue-Kivilina winter trail because it lies on the beach (owned by the State of Alaska) but not in any other part of the monument. This contradicts the previous paragraph that said ATVs could be used on BLM easements within the monument.

Page 2-50, To Private Lands Within the Monument - This paragraph states that the ANILCA guarantees private property owners reasonable access to their lands and then says "Typically" they will gain this access by snowmachine, ATV, or by boat. This contradicts the chart on page 3-23 that prohibits ATV use. These inconsistencies need resolution.

Pages 2-49 through 2-51, Access - This section covers only subsistence access to the monument by local rural residents and should be clarified as such. In the first paragraph on page 2-49 under Access, ATVs should be included as a means of access.

2-61, paragraph 3 - This paragraph references the transportation corridors identified in the Alaska Department of Transportation and Public Facilities (DOT&PF) Western and Arctic Alaska Transportation Study (WAATS) that would cross the Cape Krusenstern NM. It suggests that if the Red Dog Mine proposal is constructed the other alternatives identified in WAATS will no longer be necessary.

The discussion in this paragraph is not accurate. The transportation alternatives and corridors identified in WAATS are not limited to providing access to the Red Dog deposits. For example, the identified transportation corridors are also a means of access to the Ambler Mining District located in the upper Kobuk River area. Although an east-west transportation corridor for Ambler would most likely connect to the road and port system proposed for the

Red Dog Mine, the Red Dog development cannot be viewed as fulfilling all future regional access needs. All transportation alternatives identified in WAATS need to be considered as valid potential future developments, regardless of the system that may be developed for Red Dog.

Page 3-9, Ecosystem Approach, paragraph 2 - This paragraph notes that ". . . there is increasing pressure to develop larger transportation systems that will facilitate economic development." Management intent to respond or accommodate this pressure should be included.

Page 2-62, Proposed Red Dog Mine - In this section, as well as numerous other locations throughout the document, reference is made to the potential Cape Krusenstern land exchange between NPS and NANA which would accommodate the Red Dog Mine transportation access. It would be helpful and useful for the GMP to include a map of the area that would be affected by a land exchange. A discussion of how management of the monument might be affected by the land exchange would also be very useful. The transportation system for Red Dog will be State-owned and is now under design by DOT&PF.

Page 3-20, Access - The GMP states "In all cases access appears to be satisfactory for . . . all who require it and is expected to remain so for the life of this plan." If this is so, we find no supporting evidence to justify the proposed prohibition of pack animals. We recommend this prohibition be withdrawn and replaced by intent to limit use on a site specific basis as the resources dictate. The proposed prohibition could be easily overlooked if the public reviews only the summary of general access provisions listed in a table on Page 3-22. This table indicates pack animals are allowed in the unit until one reads the last column.

Pages 3-20 to 3-21 - This section could be clarified by reorganizing the parts around subheadings. There should be a separate section for 17(b) easements and RS 2477 as we recommended earlier. The section should also address the Kotzebue to Barrow 500-mile trail and the Noatak to Kivalina trail. A section should also be included stating that the Kakagrak Hills airstrip and connecting trails will be retained in their present condition to provide access to State tidelands four miles to the west.

Page 3-21, paragraph 1 - The potential development of regional transportation corridors in the region at some time in the future may create a demand for materials which could require gravel extraction. The plan should also recognize that there will be a need for sand and gravel resources if any of these corridors are developed. In light of this, the GMP

may wish to address mitigation guidelines in the event that gravel extraction is necessary.

Pages 3-22 to 3-25 - The paragraphs concerning snowmachines, off-road vehicles, dogs, horses and other pack animals are currently misleading. It implies that NPS permits are required for us of RS 2477 routes. The CSU units were established by ANILCA subject to valid existing rights. Therefore this section should identify that State management authority applies to valid RS 2477 rights-of-way, and indicate that the management of these rights-of-way may be addressed through cooperative management agreements with the State. Item #4 on page 3-25 and paragraph 4 on page 3-20 should be consistent with the language proposed on page 3 of this letter.

Page 3-20, paragraph 5 - This paragraph recommends that aircraft fly 2,000 feet above ground level and along prescribed aircraft corridors. It will be difficult to monitor and encourage strict compliance with these recommendations. Weather conditions and the rugged terrain should dictate flight patterns and altitudes throughout the NM. General flight corridors and advisory flight patterns should be advisory only. Language containing these non-binding guidelines should also be uniform throughout the draft GMPs. Once the plans are approved it may be useful to inform the flying public through the FAA "Notice to Airmen" regarding such non-binding guidelines.

Page 3-32, Access - We request that the language in this paragraph be modified slightly as follows:

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.

Page 3-36, Airstrips - This section proposes that the existing abandoned military airstrip in the Kakagrak Hills be retained in its present condition to provide access to the central portion of the monument and the beach. However, only limited maintenance with hand tools is to be allowed, according to the GMP. Yet, on page 2-52, the GMP states that the airstrip is approximately 3000 feet in length with only 1500 feet in a useable condition. Page 7-5 states that 1500 feet of the 3000 feet has "fallen into disrepair".

Considering the limited means of public access into the Monument, it is likely that the airstrip will become more

heavily used in the future. The airstrip maintenance restrictions proposed in the GMP could result in deterioration of the facility to the extent that it becomes hazardous to the user. The GMP should not preclude maintenance activity that may be necessary to provide a safe, useable public airstrip.

This section also proposed that no new airstrips be constructed in Cape Krusenstern NM. Although there may not currently be demand for a new airport facility within the Monument boundaries, the GMP should not preclude provision of an airstrip in the future. Development of airport facilities in a conservation system unit are not unilaterally precluded, but instead are specifically permitted subject to the same rules and regulations as other transportation and utility systems, as mandated by Title XI of ANILCA. This needs to be recognized and acknowledged in the language of the GMP.

The above comment also applies to the Airstrips category in the Comparison of Alternatives Chart on page 3-56.

Page 3-39, Future Transportation Corridors - This section references the proposed NANA and NPS land exchange. It also proposes that any new transportation corridor proposals either avoid the monument totally, or utilize the Red Dog road. Our previous comments regarding WAATS also apply to this section.

Pages 3-45 to 3-46 - We suggest that the section listing possible future cooperative management agreements should be expanded to include 17(b) easements, navigable waterways, and RS 2477 rights-of-way.

Once the changes outlined above have been made, the Land Protection Plan should be revised accordingly to address all private or other non-federal lands or interests within its authorized boundaries. The State recommends the following changes or additions regarding access.

Page 4-5 - 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 4-9 - 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.

Land Status Map (page 4-11) - 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 NM is not yet known.

Pages 4-13 to 4-15 - Our previous comments for pages 2-61 and 2-62 also apply to this discussion of future transportation corridor proposals.

Land Protection Priorities (page 4-25) - The priority for protection of 17(b) easements and RS 2477 rights-of-way should be included or referenced on this map.

Pages 4-23 to 4-40, Recommendations - RS 2477 rights-of-way and 17(b) easements should be addressed here, and listed in the accompanying Appendix on page 4-41. It should also indicate 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.

NATURAL RESOURCE MANAGEMENT

FISH AND WILDLIFE

Page 2-27, Fish and Wildlife, paragraph 2 - The author in the last citation is: J. Davis.

Page 2-28, paragraph 3 - Change the third sentence to read: "Uhl (1980) reports that moose were generally not known to occur within the area now encompassed by the monument until 1947."

Page 2-28, last paragraph - In the second sentence, "The moose population appears to be highly variable because of its relationship to wolf numbers, caribou numbers, and icing conditions on major drainages." We suggest the document supporting this statement be referenced.

- Page 2-34, paragraph 1 - Another food source for wolves are moose, and they should be included in this paragraph: "Food sources for wolves may include caribou, moose, hare, mice, and salmon depending on availability (emphasis added)."
- Page 2-34, paragraph 3 - This paragraph indicates a sheep population level of 14, but 20 is given on page 3-13. This discrepancy needs clarification.
- Page 2-38, paragraph 3 - In the last sentence, change the word "sites" to "areas" to read: "They are taken seasonally at many locations but Sheshalik Spit and the Tukruk River are particularly important areas."
- Page 2-38, paragraph 4 - The ADF&G anadromous fish stream catalog of 1983 listed five salmon species in the Noatak River and in 1985 was updated to add king and sockeye salmon in the Wulik River. This information should be incorporated in this paragraph and the salmon map correspondingly updated on page 2-39.
- Page 2-38, last paragraph - "Other species that are occasionally used for human and dog food include: tomcod, Arctic cod, rainbow smelt, flounder, bullheads . . ." This sentence needs a few minor changes for accuracy. "Tomcod" should be "Saffron cod" (there are no Tomcod in that region), "Starry" should proceed "flounder" and "bullhead" should be "4-Horned sculpin."
- Page 2-51, Pre-ANILCA Use and Activities, Commercial Fishing - Existing levels should be identified, keeping in mind that the intensity of commercial fishing activities can vary from year-to-year dictating evaluations based on several years data. The State has requested that NPS cooperate with the Alaska Department of Fish and Game (ADF&G) in making the determination necessitated by ANILCA Section 205. We look forward to initiation of these efforts as indicated by the GMP on Page 3-28.
- Page 3-10, Fish and Wildlife Management, paragraph 2 - The statement "In cooperation with the National Park Service, the Alaska Department of Fish and Game is responsible for establishing fishing and hunting regulations and for maintaining natural and healthy fish and wildlife populations according to ANILCA" requires clarification. It should reflect that the Boards of Fisheries and Game make decisions affecting the allocation of resources. The ADF&G collects, analyzes, and contributes biological, human use, and other data for use by the Boards in developing new or modifying existing regulations. The last sentence should be revised to delete "would manage" and insert "will cooperate with the ADF&G in the management of".

Page 3-10, Fish and Wildlife Management, paragraph 2 - "The department [of Fish and Game] licenses both commercial and sport fishermen" should be replaced with "The State licenses hunters, trappers, and fishermen". Harvesting of fisheries and wildlife resources in Alaska requires licenses issued through vendors by the Alaska Department of Revenue.

Page, 3-11, paragraph 1 - The implication in the last sentence that sportfishing is wasteful should be removed.

Page 3-11, paragraph 2 - In this paragraph, the statement that regulations and harvest limits are established by ADF&G should be corrected; regulations are adopted by the Boards of Fisheries and Game.

Page 3-11, paragraph 4 - We are concerned about the proposed harvest system "to obtain statewide harvest ticket information divided into regions, park units, and game management units." If NPS perceives problems with the current system, we welcome opportunities to coordinate and improve the system. The ADF&G had developed a system that gathers data for management purposes without being overly complex or cumbersome. This is another area where NPS and ADF&G cooperation may result in an improved product capable of serving both agencies' needs. We request corresponding intent be included in this section to replace the above quote.

The GMP proposes dividing harvest ticket information into park units, among others. This concept has been previously discussed on numerous occasions and is not acceptable as indicated by the Resource Management Recommendations for Cape Krusenstern National Monument (February 24, 1984 most recent update): "Natural resource management and human use of fish and wildlife cannot be effectively oriented along political boundaries . . . existing Game Management Units and Subunits . . . more accurately reflect needs of wildlife populations. ADF&G does not intend to redivide Management Units to correspond with subdivisions established by NPS within Cape Krusenstern National Monument."

The ADF&G has extensive experience in attempting to acquire harvest information as well as monitoring levels of harvest through "other sources." We look forward to improving our system with the aid of the NPS and hope that ADF&G expertise will be sought to avoid developing a duplicative and possibly ineffective system.

Page 3-13, paragraph 1 - In this paragraph, the GMP proposes a closure of Dall sheep harvest in Isichuk Hills. Prior to such a proposal, investigation, more appropriate studies, and cooperation with the ADF&G and the local residents should be pursued. Little biological information is avail-

able on sheep ecology in the Igichuk Hills within the monument although numbers are monitored. The Igichuk Hills may be a peripheral extension of the sheep concentrations to the northeast in the Maiyumerak Mountains and surrounding area. Few historic records exist and these document only a few scattered sheep. Human hunting pressure is not considered the limiting factor on sheep numbers whereas availability of forage and escape terrain are considered significant factors. Therefore, a hunting closure would probably not result in a significant increase in sheep numbers. Other aspects of sheep management in the ADF&G's Game Management Unit 23 have been identified as priorities for dedication of any available efforts and funds. Accordingly, we encourage a cooperatively directed management approach and look to further discussions on this proposal.

Page 3-13, paragraph 2 - We are unaware of documentation supporting the assertion that harvest pressures on all species have recently increased. We are supportive of the proposal to cooperatively expand fisheries research in northwest Alaska and look forward to implementing cooperative agreements.

Page 3-15, Navigable Waters, Submerged Lands, and Tidelands, paragraph 3 - The last sentence states, "Additionally, the National Park Service encourages the State to carefully consider appropriate protection for seals and other marine mammals in the waters adjacent to the monument." This should be clarified in that marine mammals are under federal jurisdiction and protected by the Marine Mammal Protection Act of 1972 (revised 1981). We question why the GMP directs such protection to the State.

Page 3-16, Natural Resource Research Recommendations - This paragraph does not reflect intent to coordinate and cooperate with the ADF&G in establishing priority resource needs and corresponding research, prior to coordination with other agencies and entities. We request this be appropriately modified in the final GMP because of ADF&G's related management responsibilities in assuring the maintenance of fisheries and wildlife populations. We also request appropriate recognition of ongoing cooperative efforts such as item 3 on Page 3-17.

Page 3-28, Commercial Fishing, paragraph - The statement of intent in this section adequately addresses this major issue previously raised by the State. We look forward to participating in the discussions and considerations addressed in the last sentence. We further request similar language, including the complete discussion, be included in all other final GMPs where commercial fishing activities occur in or adjacent to the unit.

Page 3-38, Temporary Management/Research Facilities - This management intent reflects a degree of cooperation that will be beneficial to the resources as well as managers. We request this language be adopted in all final GMPs for Alaska units.

Page 3-48, Fish and Wildlife - Regarding the proposed closure to Dall sheep hunting, please see comments for Page 3-13, paragraph 1.

SUBSISTENCE

Page 2-47, Regional Economy, paragraph 2 - The plan should be revised to include the subsistence definition presented in the ANILCA rather than the definition currently included. Problems later in the plan are a result of using an inappropriate definition, which eliminates consideration of the significant role of subsistence in a cash economy. For example, discussion on Page 2-54 incorrectly acknowledges subsistence-derived cash as only used to purchase clothing or subsistence tools.

Page 3-4, paragraph 1 - Revise this paragraph to read: "A purpose for the creation of the Monument", which is more appropriate than "The primary purpose". The ANILCA and corresponding valid legislative history cite numerous purposes of the units. The only purpose for units clearly identified as a priority is the continuance of subsistence uses over other consumptive uses of resources on federal lands.

Page 3-8, Natural Resources Management (Alternative 1), paragraph 4 - This paragraph states that one of the objectives for natural resource research would be to devise and implement subsistence programs which fulfill the intent of the ANILCA. We request the following modification: "The Alaska Boards of Fisheries and Game currently define and regulate subsistence, its uses, methods and means, and resolve conflicts and demands for fish and wildlife allocations statewide. The NPS intends to cooperate with the Boards to delineate subsistence in the Cape Krusenstern National Monument area." We request comparable language inserted in the preferred alternative in the final GMP. We also request inclusion of intent to cooperate with the State in its efforts to implement ANILCA Title VIII.

Page 3-18, paragraph 1 - Item 3 states "Natural and subsistence resources of the monument and adjacent lands." The wording incorrectly implies subsistence resources are not natural. We suggest deletion of "and subsistence" or revised to: "Natural resources and their uses in the . . ." Correspondingly, Item 4 could be modified to: "Subsistence resources and activities in the monument."

Page 3-28, Subsistence Management (Alternative 1) - The citation should be "Section 201(3) of ANILCA".

Page 3-29, paragraph 2 - Sheshalik should be included in the list as a community authorized to engage in subsistence activities in the monument.

TRAPPING

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 a sufficient basis to manage trapping in NPS units. We have not identified a need for establishment of trapping categories.

However, we believe that NPS and ADF&G can in efforts to monitor the furbearer resources to assure their health and welfare. We request inclusion of management intent reflecting such coordination in the final GMP. This is consistent with Congressional intent which directs NPS to ". . . issue appropriate regulations to insure that exploitative forms of trapping do not take place and that there is no substantial or permanent harm to the wildlife populations."

Page 3-32, Item D, Subsistence Trapping - The ADF&G and Alaska Board of Game do not recognize a distinction such as "subsistence trapping". We request the GMP clarify any intent regarding such a distinction, particularly how this could affect trapping within the monument. We request opportunities to resolve this major issue prior to completion of the final GMP.

IN SUMMARY

Overall, we are concerned that the GMP, particularly pages 3-8 to 3-16, does not adequately reflect intent to coordinate and cooperate with ADF&G regarding fisheries and wildlife. We request adoption by the NPS of the following language in this section to resolve many of the above concerns and 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 Cape Krusenstern National Monument (NM) ANILCA Section 201(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. Within conservation system units, including Cape Krusenstern NM, state management of fish and wildlife resources is required to be consistent with the provisions of the ANILCA and NPS policy.

"The NPS and the State of Alaska will cooperate in the management of the fish and wildlife resources of the Monument. A memorandum of understanding between the NPS and the ADF&G (see Appendix B) 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.

"Trapping, sport and subsistence fishing, and subsistence hunting are allowable uses in the Monument. The ANILCA requires that such harvest activities remain consistent with maintenance of natural and healthy populations in the Monument, ANILCA Section 815(1). Congress recognized that programs for the management of 'healthy populations' may differ between the NPS and the U. S. Fish and Wildlife Service due to differences in each agencies management policies and legal authorities (Senate Report 96-413, p.233).

"The State of Alaska, through the Boards of Game and Fisheries, is responsible for establishing fishing, hunting, and trapping regulations for the Monument, 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 Monument management goals and objectives.

"The ANILCA 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 in the ANILCA Title VIII. Such a state program has been implemented.

"A subsistence resource commission has been established for the Monument in accordance with Section 808 of the ANILCA.

The commission is charged with devising and recommending a subsistence hunting program for the Monument. Submission of a program is anticipated in (year).

"Customary and traditional subsistence use is considered to be a natural human role, 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).

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 the monument, 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 monument. 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 monument was established.

"Habitat and animal population manipulation will not be permitted within the monument 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 and encourage the ADF&G to conduct research projects that are compatible with the purposes of the monument. The NPS will ensure access for

state officials for purposes of conducting research and managing fish and wildlife resources.

"The monument's informational programs will inform visitors about the occurrence of human use activities in the monument in order to minimize user conflicts. Information will also be provided about activities that can result in disturbance of wildlife and their habitat.

"The NPS Resources Management Plan for the monument 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 monument 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.]

TIDE AND SUBMERGED LANDS

Several additions or changes should be made to the GMP to more adequately address the State's management authority over tide and submerged lands.

The GMP should include the following language on page 3-15 under the heading Navigable Waters, Submerged Lands and Tidelands:

All tide and submerged lands in the monument which vested in the State of Alaska at Statehood are under the jurisdiction of the State of Alaska. The NPS will submit proposals for the management of these lands to the appropriate State agency.

NAVIGABILITY

The GMP proposes to work with the State to mitigate any adverse human activity on navigable rivers (page 3-35). The State is willing to consider NPS management proposals for management of the rivers, but only upon application by NPS to DNR Division of Land and Water Management.

The following paragraphs should replace the first paragraph under the heading Navigable Waters, Submerged Lands, and Tidelands on page 3-15 of the Preferred Alternative:

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 navigable by the Bureau of Land Management. Navigability determinations have not been made on other rivers within the NM.

The NPS will seek cooperative agreements with the Department of Natural Resources concerning the management of submerged lands under navigable waters. NPS will make requests for the use of these lands to the appropriate State agencies.

Page 4-5, Summary and 4-9, Land Status Table - The summary should include a footnote or other acknowledgement of the unresolved navigability status of many of the waterbodies in the NM.

Page 4-38 - The discussion about navigable waters on this page should be rewritten to be consistent with the language recommended above.

WATER RIGHTS

Federal reserved water rights are created either expressly or by implication when federal lands are 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.

To reflect these concerns, we recommend that the following language be added to the section on page 3-16 under the heading Water Rights:

"The water resources of the Cape Krusenstern National Monument will be managed to maintain the primary purposes for which the unit was established. The primary purposes of this NM are _____, as cited in the following legislation establishing this national preserve (reference to legislation). Water for secondary purposes and all other uses within the NM will be applied for under AS.46.15. Specific water resource requirements for the primary purposes of the NM 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 4-3 to 4-44 - Although addressing the water appropriation issue is different from addressing inholdings within the NM, 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 NM. These watercolumns remain subject to management authority by the State, although the State may choose to cooperatively manage such areas with NPS on a case-by-case basis.

Page 3-22, Motorboats - The wording should be revised to acknowledge the State's management authority over the watercolumns in the NM.

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 GMP's 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 improve working relationships with local landowners.

In discussions of future land acquisitions or boundary changes, NPS defines areas and presents justification for inclusion of candidate lands into the Park. 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 are 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.

Pages 4-13 to 4-15 - We suggest that the possible utilization of hydro sites that may be contained in the Cape Krusenstern National Monument also be identified and examined. Consideration must also be given to the utility corridors that may be required to transmit electrical energy to Kivalina, Noatak, and other settlements developed for the Red Dog mine, including potential NPS facilities.

The following pending State land selections are inside the boundaries of the monument and were not identified in the GMP. The maps and various sections in the plan that address non-federal lands should be revised to address these selections.

<u>Legal Description</u>	<u>Selection Date</u>	<u>State Selection #</u>
T. 28 N., R. 21 W., K.R.M. Secs. 25, 33, and 34	TA (11-19-80)	GS-4034

WILDERNESS SUITABILITY

The Cape Krusenstern GMP has identified as being unsuitable for wilderness (page 7-4) areas with roads or trails that are improved by mechanical means and regularly used by motorized vehicles. However, the Wilderness Suitability map on page 7-7 shows areas suitable for wilderness that include regularly used corridors for public access. The State recommends that NPS reevaluate their wilderness suitability map by overlaying this map with a map showing the possible RS 2477 rights-of-way and 17(b) easements that have been provided by the State. Areas that overlap with these easements or trails should not be considered suitable for wilderness.

The Wilderness Suitability determination section should also acknowledge that transportation corridor routes have been identified that will cross the Monument if the routes are developed. Designation as Wilderness may restrict regional transportation access that may be required in the future. Therefore, the process to determine wilderness suitability must include analysis of the proposed transportation routes and their alternatives outside the Monument.

MANAGEMENT OBJECTIVES

We believe that the management objectives for the GMP should be located in the beginning of the plan in order to receive full public review. The previously published Statement for Management is not the GMP required by ANILCA Section 1301; the objectives are an important base from which the GMP is developed and should receive adequate review.

REMAINING COMMENTS

Page 1-7, Brief Description of the Monument, paragraph 1 - In the first sentence change "659,800" to "approximately 540,000" acres as stated in the ANILCA.

Page 1-11, The Monument map - It would be helpful if the names of key areas discussed in the plan were included on the map, such as Mulgrave Hills (Page 2-33).

Page 2-14, 2-15, 2-16, etc. - The Implications sections are often ambiguous; their purpose is not clear. If these are intended as indications of management concerns, they should be clarified with corresponding specific management intent.

Page 2-62, Proposed Red Dog Mine - Specific management plans should be included regarding this project, to be ready for implementation when the mining operation begins.

Page 3-8, Natural Resources Management (Alternative 1), paragraph 2 - The NPS states that "Some work has already been done by the State of Alaska, the National Park Service, other government agencies, universities and private organizations . . ." Identification of these studies would greatly enhance this section.

Page 3-8, last paragraph - "A portion of the monument surrounding 209,360 acres has been identified as a potential National Natural Landmark by the Department of the Interior." We request clarification of how this potential designation may affect land uses and management within the monument .

THE ALASKA COASTAL MANAGEMENT PROGRAM

The Division of Governmental Coordination has also completed the coastal consistency review of this draft plan. Based on our

review, the Division agrees with the NPS determination that the plan is consistent with the Alaska Coastal Management Program (ACMP). However, we wish to note that the more detailed Resource Management Plan as well as permitted activities and NPS actions on federal lands that "directly affect" coastal resources are also subject to the requirements of the ACMP. In other words, State agreement with the federal consistency determination of the GMP at this time does not automatically guarantee that the recommended activities will be consistent with the ACMP when detailed later in specific management proposals. We therefore recommend that NPS involve the local Coastal Resource Service Area Boards and State agencies in the development of the more detailed actions.

We request that the final GMP acknowledge the ACMP and outline the process under which NPS will ensure that more detailed management plans, NPS actions, and permitted activities will be consistent with the ACMP. Reference should be made to the MOU between NPS and DGC (currently in draft) which addresses this process.

We have commented only on parts of the plan to which we have concerns. However, State agency reviewers wish to be advised of any changes to other parts of the plan that may result from comments of other agencies or individuals. Many of the comments included here will reappear in our comments on the remaining National Park Service 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 Cape Krusenstern NM. As noted at the beginning of this letter, we request that our concerns be addressed as consistently as possible in this and all remaining GMPs. If we can be of any assistance in clarifying these 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

ATTACHMENT

cc: R. Davidge, DOI
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