

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET  
DIVISION OF GOVERNMENTAL COORDINATION

BILL SHEFFIELD, GOVERNOR

STATE CSU COORDINATOR  
2600 DENALI STREET, SUITE 700  
ANCHORAGE, ALASKA 99503-2798  
PHONE: (907) 274-1581

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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 Kobuk Valley National Park (NP). 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 GMPs 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 four major categories, Access and Transportation (page 2), Natural Resource Management (page 9), Visitor Use and Facilities (page 16), and remaining comments organized by chapter (page 19). 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.

### 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 The Region, 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 Region 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 NP boundaries, including a brief discussion about the historical use, current use, and management status of each. The Kobuk River, the winter trail from Jade Mountains, the Kotzebue to Shungnak trail and various trails used for travel between villages are currently discussed; however, the summary does not include other routes. 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 NP or on adjacent lands that terminate at the NP boundary should also be included.

EIN 1 - A 25 foot winter trail easement for the Kotzebue - Shungnak 200 mile trail which is the primary winter access corridor through the park. Allowable uses include small ATVs under 3000 pounds G.V.W.

EIN 8 - A 50 foot trail easement from the Kobuk River near Onion Portage northerly to an isolated block of land managed by the BLM. Winter uses allowed on this easement include travel by small and large ATVs, track vehicles, and four wheel drive vehicles. Summer uses include small ATVs under 3000 pounds G.V.W.

EIN 9 - A one acre site easement which serves as a trailhead for EIN 8.

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 NP 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 5 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 Region chapter, the Preferred Alternative should also address 17(b) easements, RS 2477 rights-of-way. Non-exclusive use easements should also be discussed.

The section on 17(b) easements in the Preferred Alternative should reference the list of easements in the Region chapter. It should also indicate what additional restrictions, if any, NPS intends for these easements, or state that policy for NP 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 Region and include the following language:

"The National Park 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 NP 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 15, paragraph 3 - All-terrain vehicles (ATVs) should be added as a means of access.

Page 55, last paragraph - In the second sentence, the NPS states that trails are marked in the winter throughout Northwest Alaska. These trails should be included on the requested access map and addressed in "a plan for access to, and circulation within, such unit" as required by ANILCA Section 1301(b)(4).

Page 56, paragraph 2 - This paragraph should recognize that ATVs are also utilized for subsistence activities within the Park.

Page 56, paragraph 3 - Exceptions are also provided in 36 CFR to permit use of aircraft for subsistence harvests. This section should be clarified accordingly.

Page 56, Current Public Uses: The last sentence of the second paragraph on this page states that most winter travel between the upper Kobuk River villages and lower Kobuk River villages occurs on the frozen Kobuk River. While it is true that a large portion of the winter travel route follows the Kobuk River, it is also true that depending on snow conditions the route breaks away from the river and runs overland.

Pages 76-78 - This section could be clarified by reorganizing the parts around subheadings. There should be a separate section for 17(b) easements, RS 2477s and the Kotzebue to Shungnak 200 mile trail as we recommended earlier. This access section also needs to recognize the use of ATVs on occasion by subsistence users.

Page 77 - 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. Paragraph 5 on page 78 should be replaced with the language proposed on page 3 of this letter. This comment also applies to Appendix I, Access Provisions, pages 217-219.

The summary of access provisions also states "the park is open to the use of . . . horses or other pack animals." This is contradictory to the statement of management intent in paragraph 3.

Page 77, paragraph 1, item (3), states "the use of off-road vehicles, other than snowmachines, is generally prohibited". We suggest a clarification of the term "generally prohibited", keeping intent consistent with directions contained in the legislative history and the NPS Alaska park unit regulations.

Page 77, paragraph 2 - The statement "the use of aircraft for subsistence use is generally prohibited, . . ." needs clarification. The second part of the sentence should also recognize ATVs as a form of traditional access.

Page 77, paragraph 3 - We oppose the proposal "to permanently close the park to all other pack animals" [excluding dogs]. The NPS supports this closure based on "the use . . . would cause unacceptable impact". This is unsubstantiated and seems unnecessarily restrictive. We suggest the NPS consider site specific closures where necessary to protect resources. (This comment also applies to page 90, paragraph 1).

Page 77, 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 NP. 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 78, paragraph 2 - We note that the GMP indicates that airstrips would not be "constructed" in the NP. We presume that this does not include maintenance. Any airstrip maintenance restrictions could result in deterioration of existing airstrips to the extent that they could become hazardous to the user. The GMP should not preclude basic maintenance activity on any airstrips that may be necessary to provide safe, useable access for the visitors of the NP.

We recommend that general language be included in this and other GMPs to adequately address this important safety issue. We suggest the following:

The NPS will not expend funds for the maintenance or upgrade of backcountry airstrips. However, traditional uses of these strips, including minor safety measures such as rock removal and brush trimming may continue as in the past.

The GMP also states that no airstrips would be constructed but that a helicopter landing area would be designated along the middle section of the Salmon River ". . . to allow public access . . ." This is clearly inconsistent with protection of existing uses and Congressional intent quoted below. Public access as discussed earlier in the plan, occurs by fixed-wing aircraft. The ANILCA legislative history (Congressional Record-Senate, S11130, August 18, 1980) directs: "The committee expects the National Park Service to designate an aircraft landing site in the headwaters for access by fixed winged aircraft for visitors who may desire to float the river . . ." Further Congressional intent is specified in Congressional Record-House, November 12, 1980, H10536:

"It is the intent [of the Committee] that the National Park Service may make the Salmon River available for visitor use and enjoyment by permitting, to the extent compatible with the purposes for which the park is established, aircraft to land at sites in the upper Salmon River watershed.

"The National Park Service is expected to designate an aircraft landing site in the headwaters for access by fixed-wing aircraft for visitors who may desire to float the river. Should no natural landing site be available, the National Park Service should study the

feasibility of constructing a back-country airstrip as necessary to accommodate fixed wing "bush" type aircraft. The landing site should provide ready access to the river, yet not impair the character of the wild river or the wilderness setting of the Baird Mountains."

We request clarification of the NPS management intent in light of these directives.

We also request that the following language (modified slightly from the 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.

Page 78, last paragraph - We request clarification of the referenced National Park permit requirements of rights-of-way. A permit system for access by resource users does not seem appropriate or necessary at this time, particularly since the impact would target local subsistence users.

Page 78 - The plan should also acknowledge the importance of the Ambler mining district, and that development of this area is dependent on establishing a transportation route from Ambler westward to the coast through the preserve. The plan needs to address this issue and include a discussion of the corridor and how the corridor will be accommodated across preserve lands.

Page 97 - 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.

Page 103, Public Use - Both alternatives propose the access closure of pack animals (other than dogs). We cannot support this closure of the Kobuk NP to the use of pack animals at this time. See our comments for Page 77, paragraph 3.

Page 126, Resource Management and Visitor Use Objectives - The NPS states intent to "enhance public access". Such intent is not reflected in the plan. We request appropriate clarification of intent and the access program as required by the ANILCA Section 1301(b)(4).

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.

Pages 120-121 - 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.

Pages 126-127 - 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 123) - This or a similar map should include the various RS 2477 rights-of-way and 17(b) easements identified in the attachments, including the Kotzebue to Shungnak trail. 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 NP is not yet known.

Page 131, External Conditions Affecting Land Protection - The fourth paragraph on this page refers to three transportation corridors identified in the Department of Transportation and Public Facilities (DOT&PF) Western and Arctic Alaska Transportation Study (WAATS) that could affect the Kobuk Valley National Park. While the text states that there are no immediate plans to develop these corridors --- with which we agree --- the text should go one step further and indicate that they will remain available for future utilization.

Although electrical interconnection of all Kobuk Valley villages is not feasible at the present time, future development in the upper and lower Kobuk Valleys could warrant electrical interconnection of the villages. The villages of Kobuk and Shungnak were interconnected in 1982.

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.



Land Protection Priorities (page 141) - The priority for protection of 17(b) easements and RS 2477 rights-of-way should be included or referenced on this map.

Pages 140-148, Recommendations - RS 2477 rights-of-way and 17(b) easements should be addressed here, including the Kotzebue to Shungnak Trail. 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. We specifically suggest that reservation of a non-exclusive use easement be considered for Native allotments which are crossed by the Kotzebue to Shungnak 200 mile trail.

#### NATURAL RESOURCE MANAGEMENT

##### FISH AND WILDLIFE

Generally, the plan could be greatly improved by increasing the level of detail for important resource issues such as fisheries (especially commercial fishing and fisheries improvement activities), access and recreation. During revision, we suggest the sections on wildlife be used as an example. These sections provide background information and distribution maps for the species occurring in the areas. They also express NPS's management intent by including the Alaska Department of Fish and Game (ADF&G)/NPS Master Memorandum of Understanding as an appendix. Intent is further clarified by language in the text acknowledging ADF&G's management responsibilities and expression of a desire to work within the State's regulatory framework.

Page 36, last paragraph - Delete the word "red" from the second sentence to read: ". . . five species of Pacific salmon . . . ;" In addition to chum and pink salmon noted as occurring in the drainages of the Kobuk Valley National Park, the ADF&G documented king salmon migrating through the Kobuk River in 1984.

Page 66, paragraph 1 - The GMP plans to "monitor resources and conditions, gather base line data, and monitor human uses to determine if damage to resources is occurring." We request clarification of management intent since the Alaska Department of Fish and Game (ADF&G) already collects and monitors this same information. Specifically, we request intent to cooperate with the ADF&G in monitoring and assessment activities.

Page 66, Fish and Wildlife, paragraph 3 - The NPS has excluded the following sentence: "The National Park Service recognizes, 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." This sentence clarifies congressional intent and should be included in the quote.

Page 68, paragraph 1 - We find implications in this section of the use of NPS oversight authority prior to exhausting other available regulatory and cooperative avenues to be unnecessary and inconsistent with existing policy. The ADF&G certainly cannot support any actions which threaten the welfare of a species either.

Page 68, paragraph 2 - We are concerned about what is meant by the phrase "additionally, the proposed harvest comprehensive system for harvest ticket reporting . . . ." 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 important product capable of serving both agencies' needs. We request corresponding intent be included in this section to replace the above quote.

#### Subsistence

Page 21, Economy, paragraph 1 - The plan should be revised to include the subsistence definition presented in 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.

Page 54, Current Public Uses, paragraph 1 - Revise the last sentence to read: ", . . . is by far the largest subsistence use of the Park" (emphasis added).

#### 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 the 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 the establishment of trapping categories.

However, we believe that NPS and ADF&G can coordinate 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 19, Land Use - The second sentence should be revised to include trapping as a land use: "They include subsistence and recreational activities, hunting, fishing, trapping, travel . . . ."

Page 79, paragraph 3 - In the third sentence, trapping should also be recognized as a legitimate traditional use.

Page 88, Item D, Subsistence Trapping - The ADF&G and Alaska Board of Game do not recognize a distinction such as "subsistence trapping". We request NPS clarify any intent regarding such a distinction, particularly how this could affect trapping within the Park. We request opportunities to resolve this major issue with NPS prior to completion of the final GMP. Please also see our general comments.

#### In Summary

Overall, we are concerned that the GMP, particularly pages 66-69, 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 the Park, ANILCA Section 201(6). 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 Kobuk Valley NP, 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 cooperatively manage the fish and wildlife resources of the Park. A memorandum of understanding between the NPS and the ADF&G (see Appendix C) 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 Park. The ANILCA requires that such harvest activities remain consistent with maintenance of natural and healthy populations in the Park, ANILCA Section 815(1). The State of Alaska, through the Boards of Game and Fisheries, is responsible for establishing fishing, hunting, and trapping regulations for the Park, 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 park 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 Park in accordance with Section 808 of the ANILCA. The commission is charged with devising and recommending a subsistence hunting program for the Park. 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 park, 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 park. 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 Kobuk NP was established.

"Habitat and animal population manipulation will not be permitted within the Kobuk NP 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 Park. The NPS will ensure access for State officials for purposes of conducting research and managing fish and wildlife resources.

"The Park's informational programs will inform visitors about the occurrence of human use activities in the Park 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 Kobuk NP 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 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.]

NAVIGABILITY

The GMP proposes to work with the State to mitigate any adverse human activity on navigable rivers (page 71). 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.

Although the plan recognizes that the Kobuk River is navigable, it does not address the status of the other rivers in the Park. The following paragraphs should replace the first paragraph under the heading Water Rights and Navigability on page 71 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. Navigability determinations have not been made on other rivers within the NP.

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.

Pages 120, Summary and 126, Land Status Table - The summary should include a footnote or other acknowledgement of the unresolved navigability status of many of the waterbodies in the NP.

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 replace the first paragraph under the heading Water Rights and Navigability on page 3-7:

"The water resources of the Kobuk Valley National Park will be managed to maintain the primary purposes for which the unit was established. The primary purposes of this NP are \_\_\_\_\_, as cited in the following legislation establishing this national preserve (reference to legislation). Water for secondary purposes and all other uses within the NP will be applied for under AS.46.15. Specific water resource requirements for the primary purposes of the NP 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 144-148 - Although addressing the water appropriation issue is different from addressing inholdings within the NP, 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 NP. 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 217, Motorboats - The wording should be revised to acknowledge the State's management authority over the watercolumns in the NP.

OTHER NATURAL RESOURCE COMMENTS

The legislative history in Congressional Record-Senate, August 18, 1980 instructs the Secretary of Interior to establish an advisory board "to encourage and guide a comprehensive, interdisciplinary scientific research program within the area." We are concerned that intent regarding establishment of this board has been omitted from the GMP.

Pages 27-28 - Coal deposits have also been reported along a southwesterly tributary of the Kallarichuk River. Samples received and analyzed in 1964 by the Department of Natural Resources indicated a range of 10,000-12,000 BTU/lb. This site is more precisely described in BLM File F-60609, Coal Prospecting Permit, Ronal Barr, Sr., and Paul Brown, Sr. Our latest information shows BLM rejected the application on July 15, 1981 and we do not know if the applicant appealed.

Page 66, paragraph 2 - Section 1301(b)(2) of ANILCA requires NPS include a description of resources management methods and programs in the GMP. Section 1301 (d) also requires provisions for participation in the plan, not just review. We request this intent be modified accordingly and opportunities for participation be clearly detailed in discussions of a resources management plan.

VISITOR USE AND FACILITIES

Important natural resource areas which have a high potential for increased visitor use are not adequately addressed. For example, the Onion Portage area is noted as being on a major caribou migration route that is subject to use by both local residents and visitors. Because of the diversity of use of this and similar areas (e.g. Great Kobuk Sand Dunes) it is imperative that the GMP address management efforts to protect the natural resources while allowing for both local and visitor use. Additionally, archeological sites within the NP are also potentially high visitor use areas. A number of these are on private land. We request that the GMP recognize these sites and their status as private inholdings.

Page 19, Land Use, paragraph 1, - In the first sentence NPS states: "Land uses in Northwestern Alaska may be generally described as occasional and intermittent." This may be true for the out-of-region visitors, but is certainly not true of the local residents. This sentence should be modified accordingly.

Page 23, last paragraph - The NPS states that "Onion Portage is today the most used site for the hunting of caribou by the people of Northwest Alaska." This is also a prime archeological site and a potentially high visitor use area. The GMP should include a more detailed management alternative for this area with clear management intent regarding



protection of the site while providing visitor use of the area. Congress directed "the National Park Service to cooperate with the local people to protect the Onion Portage area and to seek cooperative agreements for the management of the area." (House, November 12, 1980, H10536). We desire opportunities to be involved in developing these cooperative agreements. We also request such direction be included in the final GMP.

Page 27, paragraph continued from page 24 - Regarding the Great Kobuk Sand Dunes, we note that the ANILCA Congressional Record (Senate, August 18, 1980, S10536) directed the NPS to provide public access and use of this area: "it is expected that the Kobuk Sand Dunes will be made available for visitor use and enjoyment. It is the intent that the National Park Service be allowed to provide and develop visitor facilities and accommodations within the national park that would directly relate to visitor use and enjoyment of the Kobuk Sand Dunes. However, no development other than the type which is traditionally allowed in wilderness, i.e., trail construction, would be allowed within the wilderness portion of the area. In developing a plan for the sand dunes, the National Park Service should study the possibilities of constructing mobile or impermanent facilities, such as floating structures on the Kobuk River, which would minimize environmental impacts." We request that management intent regarding the above directives be clearly detailed in the GMP.

Page 78, paragraph 3 - The NPS states "the Great Kobuk Sand Dunes are used by most out-of-region visitors to the park." The NPS also indicates that, in the future, trail plans may be made due to the importance of this area as a prime visitor use area. As noted in our previous comments for Page 27, this plan should include more detailed management intent and alternatives for this area. (This comment also applies to Page 112, last paragraph.)

Page 84, paragraph 4 - We request clarification of any services being conducted in the Park, preferences considered or encouraged, and intent regarding future services.

Page 111, last paragraph - The cabin policy in the plan does not appear to be consistent with the policy recommended by the Alaska Land Use Council. We find management intent regarding the Kennicott Cabin to be inappropriate; occupancy by NPS personnel of a cabin in the path of a major caribou migration is judged by the GMP to have no significant impact yet public use of this and other cabins is being prohibited.

ENVIRONMENTAL CONSEQUENCES

We are disappointed by the limited scope of the two alternatives offered. For each plan, one alternative is described as "status quo", although new management restrictions are proposed. The other, the "preferred" alternative, is virtually the same as "status quo" except for recommendations for increased staffing and facilities. We would have preferred for NPS to expand the range of alternatives by offering one which truly reflects the existing situation and others which deal with varying degrees of access, recreational use and wilderness proposals, as well as staffing and facility levels.

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.

We question the viability of the emphasis on acquisition as the 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.

We are concerned about the general nature of the Land Protection Plan, particularly the lack of specific issues identification. Greater emphasis needs to be placed on impacts of potential adjacent land use activities on habitat and resource uses. We also would appreciate assurances that the land protection plan will be subject to review and updated or revised as necessary.

Page 128, External Conditions Affecting Land Protection - This section identifies activities in Northwest Alaska that may affect Kobuk Valley NP. Yet little is said regarding how NPS intends to participate in or specifically influence these activities. In particular, the GMP should state what specific concerns it may have and what NPS goals are envisioned for these plans and activities.

Pages 135-136, Zoning - One of the "protection alternatives" discussed is State zoning, yet no specific proposals are included. However, the only State zoning authority (AS 38.05.037) deals with the facilitation of federal land sales, a circumstance that does not apply in the park. If there are proposals, they should be included for discussion and forwarded to the State.

#### WILDERNESS SUITABILITY

The Kobuk Valley GMP has identified as being unsuitable for wilderness (page 158) areas with roads or trails that are improved by mechanical means and regularly used by motorized vehicles. However, the Wilderness Suitability map on page 159 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.

#### 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 3, paragraph 1 - We suggest adding "containing approximately 1,710,000 acres. (Also applies to page 15, paragraph 1, and page 22, The Park.)

Page 65, Preferred Alternative, - We request that the second sentence be revised to read: ". . . the Park shall be managed for the following purposes, among others:". Congress clearly indicated that numerous purposes for each unit were to be considered in their management as well as those listed in ANILCA Title II: "Sections 201 and 202 also set forth the purposes of each designated unit and additions to existing units. Enumeration of purposes is not exclusive, but is set forth as a guide to management." (House, November 12, 1980, H10533).

Page 73, Cooperation with Native Alaskans - We suggest the first sentence be written: "As specified in Section 201(6) of the ANILCA, the Park would be managed to protect and interpret the archeological sites associated with Native cultures in cooperation with Native Alaskans . . ." We also request management intent be included in the final GMP for fulfilling Congressional directives that "Involvement of the Kobuk Valley Eskimos in the management, use and interpretation of the areas is planned and expected." (House, November 12, 1980, H10536)

Page 73, Cultural Assistance should read: "As specified in Section 1318 of ANILCA the Secretary would provide . . ."

#### 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 Kobuk Valley NP. 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  
J. Katz, Governor's Office, D.C.  
S. Leaphart, CACFA  
J. Leask, AFN  
R. McCoy, ALUC  
State CSU Contacts

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