

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## OFFICE OF THE GOVERNOR

### OFFICE OF MANAGEMENT AND BUDGET DIVISION OF GOVERNMENTAL COORDINATION

**SOUTHCENTRAL REGIONAL OFFICE**  
3601 "C" STREET, SUITE 370  
ANCHORAGE, ALASKA 99503-5930  
PH: (907) 561-6131/FAX: (907) 561-6134

**CENTRAL OFFICE**  
P.O. BOX 110030  
JUNEAU, ALASKA 99811-0300  
PH: (907) 465-3562/FAX: (907) 465-3075

**PIPELINE COORDINATOR'S OFFICE**  
411 WEST 4TH AVENUE, SUITE 2C  
ANCHORAGE, ALASKA 99501-2343  
PH: (907) 278-8594/FAX: (907) 272-0690

October 6, 1993

Gary Vequist  
National Park Service  
2525 Gambell Street, Room 107  
Anchorage, Alaska 99503

Dear Mr. Vequist:

The State of Alaska has reviewed the preliminary draft Resource Management Plan for the Lake Clark National Park and Preserve. This letter represents the consolidated comments of the State's resource agencies.

We apologize for the delay in submitting these comments and appreciate your willingness to receive them at this late date. State staff are just now catching up from an unprecedented number of national park and refuge-related planning documents released this summer. We have conveyed our concerns and suggestions about the seasonal timing and length of reviews to your Regional Director in hopes that we can avoid such a backlog in the future.

Overall, the Draft Resource Management Plan appears to be consistent with the format and process which was agreed to between the state and Service several years ago. The approach taken by its authors to numerous controversial subjects is generally unbiased and comprehensive. Some of our comments can be addressed with simple word-smithing. Others need more substantial corrections. We would be happy to further explain these comments and assist as requested in the Service's efforts to make revisions to this document.

#### Lack of Current Data

One substantive deficiency of the plan is the lack of current data. More current information is available than the 1983 estimates of harvests occurring in the park and preserve. Most of the resource-related discussions repeat generalizations from the mid-1980's-era general management plan or wilderness environmental impact statement. The resource management plan should take advantage of the current information which has been

gathered by state and federal agencies. The only current data are 1992 raptor numbers; the small amount of wildlife data which are included were collected in 1987 or earlier.

### Fisheries and Wildlife Management

In several locations, the plan inappropriately assigns authorities for management of wildlife to the National Park Service. The Master Memorandum of Understanding between the Service and the Alaska Department of Fish and Game clarifies the roles of these agencies, and we request the errors in the plan related to these roles be corrected accordingly. The Service and DFG have mutual interests in fish, wildlife, and their habitats that should be recognized, which we suspect was intended by these references in the plan. Simple but sensitive rewording should resolve this issue.

Page 1, Introduction. We request that the introduction include language which recognizes the Department of Fish and Game's authority to carry out its mission, goals, and objectives regarding management of fish and wildlife resources.

Page 4, B. Objectives. "*Continue the development of an effective cooperative wildlife management program with the State of Alaska.*" The state manages wildlife. We suggest rewording to read: "Continue to develop effective cooperation with the State of Alaska in its wildlife management program."

Pages 24 and 30, F. Subsistence Resources and Subsistence Resource Management. "*ANILCA also establishes . . . the cooperative management roles of the National Park Service and State of Alaska.*" These statements should be revised to delete the word "management". ANILCA clearly leaves management of the fish and wildlife resources to the state with related cooperative roles directed to the federal government. This cooperative role is more accurately reflected on page 33 under issue N19.

Page 40, Problem Statement, paragraph 1. We suggest that the Service can reduce the unnecessary overlap with the state's management of populations by simply defining "healthy" population instead of defining goals, objectives, and monitoring populations already monitored and managed by the state.

Page 41, paragraph 1 and Page 44 paragraph 4. We strongly disagree that "*adjustments to GMU [Game Management Unit] boundaries and reporting protocol is needed for harvest monitoring to become of any value in managing (wildlife) within LACL.*" The state's game management unit boundaries were established based on population parameters, not political boundaries. The state's management of ungulates based on population activities and use information is obviously of more value than based on political boundaries established by Congress.

Page 52. We request the last sentence be revised and suggest it read: "Park staff will be responsible for integrating this project with other related activities to ensure direct cooperation with the state's management program."

Page 50, Paragraph 2 incorrectly states "*ANILCA requires the National Park Service . . . to manage all fish and wildlife within the preserve . . .*" ANILCA Section 1314 clearly reiterates the state's management of fish and wildlife on all lands in Alaska. Directives are given to the Service (ANILCA Section 815) to assure that activities shall not be inconsistent with maintaining natural and healthy populations in the park and with maintaining healthy populations in the preserve. However, directives regarding management of activities is not the same as transferring the state's management of fish and wildlife authority to the Service.

Pages 144-146, S-03 Regulate harvest of Subsistence Resources. The final sentence in paragraph 2 on page 144 inaccurately states that preserve lands are to be managed under the "natural and healthy" standard. 36 CFR 13.40(f) clarifies the ANILCA directives that the "natural and healthy" standard is used in park and monument units.

#### Natural Resource Information

For "Terrestrial Fauna" (Page 17), we disagree that the "present database" of "Gen. Species information" is "inadequate" and that for these species the "documentation of Human influences" is "poor". As the manager of the wildlife resources, we believe the general species information is adequate, and we are well aware of human uses and impacts of activities. Any prioritization the Service wishes to give in order to collect more specific information in specific areas is always welcomed by scientists but non-essential for management purposes.

The description of the status of wildlife data, and desire to improve that data, is more accurately addressed on page 34 under N19.

Page 33, Loss of Park Resources.... We agree with and endorse the call for further cooperative study programs with the State of Alaska.

Pages 35-100. We request each of the program elements include terms for substantive cooperation with the Department of Fish and Game, wherever fish and wildlife data needs are identified, particularly in operational planning. In our experience, it has been difficult for appropriate DFG staff to be involved in the Service's preparation of draft operational plans for projects, particularly fisheries. Operational planning is critical to success of resource assessments. Similarly, we desire a stronger

role in the Service's development of "cooperative" resource assessment programs in the park and preserve than described in the draft plan. We do appreciate the mutual efforts which are currently underway in the park, such as the lake trout project.

Pages 36-37. We suggest that the Service coordinate all beluga surveys through Lloyd Lowry, Department of Fish and Game, Fairbanks (456-5156). Lloyd Lowry and Kathy Frost coordinate most federal and state agencies efforts and currently are working via a federal grant through the North Slope Borough to develop population estimates for belugas throughout the state.

Pages 38-39. We urge the Service to coordinate brown bear research such as proposed here with Dick Sellers, Department of Fish and Game, King Salmon (246-3340) and Vic Barnes, Fish and Wildlife Service, Kodiak (487-2600).

Based on DFG's considerable experience in conducting wildlife research projects, we suggest that \$35,000/year is not sufficient for salary and expenses of a project of this magnitude.

Page 42. We fully support expanded caribou research in cooperation with the DFG's existing program. We also support the concept of developing cooperative research and management objectives for the caribou that use the park/preserve.

Page 44. The existing DFG harvest monitoring program can be used to provide sufficient information about brown bear harvests in Lake Clark National Park and Preserve.

Page 45. The skeletal proposal to monitor brown bear populations outlines a good concept but needs to be more detailed and cooperatively developed with the DFG.

Page 47. We support the Service's effort to initiate wolf population research and suggest it be a high priority. The State has limited wolf population data for this area. Observations during the winter of 1992-1993 indicate that wolf numbers are increasing in Game Management Unit 17B, possibly as a result of increased prey availability and the prohibition of same-day-airborne shooting.

Pages 49-53, N-05 Monitor Furbearer Population Status and Harvest. We generally support activities that yield more comprehensive resource and subsistence harvest data, but we do not support a trapline registration system at this time. The Service has some idea of the general level of trapping effort in the unit and should not need an intrusive registration system to detect changes in the general levels of effort and harvest from one year to the next. A combination of state sealing records and community subsistence survey data should provide an adequate overview of harvest levels for selected years. This project

should initially focus on developing good species population data, then determine if imposing more requirements on local trappers is necessary. Consultation with the Lake Clark Subsistence Resource Commission also is essential before conducting management activities which will affect subsistence activities in the park unit.

We also encourage the Service to work closely with Howard Golden, Department of Fish and Game Wildlife Division, Anchorage (267-2177) in the development of this project. He has been developing furbearer survey methodology and other population information cooperatively with the National Park Service, Fish and Wildlife Service and other organizations. DFG also desires to review these proposals to assure coordination with existing DFG furbearer research projects and techniques.

Page 93. The Chinitna brown bear and Twin Lakes sheep studies may be important to park managers, but the studies will provide only limited population or behavior data that can be applied elsewhere.

#### Subsistence Resources Management and Information

Our review copy lacks a bibliography, so we were unable to evaluate the references from which the discussion of subsistence and resource harvest estimates presented on page 26 were derived. However, the information appears to have been taken essentially verbatim from the 1988 Wilderness Recommendation EIS for Lake Clark National Park and Preserve. The state had numerous questions about the subsistence data presentation in that EIS, most of which were not addressed in the Service's response. Consequently, we refer you to our letter of July 18, 1988 discussing these concerns.

The 1983 harvest figures should be updated. To the extent that this data may be unavailable, we request that the deficiency be addressed. The table listing percentages at the bottom of page 26 should state clearly that these data refer only to the park unit, and it should specify how these percentages relate to the harvest information presented elsewhere on the page. Do these proportions differ markedly among the park area communities?

We do not dispute the need for more comprehensive subsistence harvest data for local communities (page 30). However, we disagree that "baseline population, distribution and harvest information is lacking for many species subject to subsistence harvest." We appreciate that the unit's staff would like to justify doing more studies and work directly with wildlife populations, however; the plan fails to recognize the realistic usefulness of acquiring more specific data. We urge a major rewrite of this entire paragraph and clear assessment of what the Service is proposing.

Page 30, paragraph 2. The meaning of the following statement is confusing: "*The current exclusive community reliance on subsistence game populations and geographic areas of concentration are unknown*".

Page 30, paragraph 3. Since Canada is not in close proximity, we suggest collecting data on exchanges of subsistence goods with Canada may not be a very high priority.

Page 31, Increasing Recreation Demand. The last phrase of the first paragraph of this section is not accurate. Deletion of the phrase does not detract from the Service's desired meaning.

Pages 135-137, Subsistence Management Program: Overview of Current Program and Needs. Many of the "*specific issues*" cited in this section are disturbing in that they imply little effort or success by the Service since 1980 to establish rapport with local communities. For example, the plan concludes that village residents are "*generally unaware of NPS presence or purpose*". On what basis does the Service conclude that "*Many residents follow established practices regardless of whether or not they are consistent with existing regulations*"?

One issue refers to the "complex" criteria used by the state for making customary and traditional (C&T) determinations, but neglects to note the similarity to the criteria to be used by the Federal Subsistence Board for making its own C&T determinations.

The plan is concerned about the inability of park staff to identify those residents that would receive priority if ANILCA Section 804 was triggered. This cannot be done so far in advance of an actual situation which requires that subsistence eligibility among local residents be assigned priority. We recommend the Service examine this important question more generally and work with the Lake Clark Subsistence Resource Commission to establish a process by which it would make 804 determinations, when necessary.

We also recommend that the Service conduct a thorough review of the ethnographic, historic, and subsistence data available for the park area as a first step in assigning priority to the significance of these issues.

Pages 138-141, S-01 Collect Subsistence Harvest Information for Lake Clark National Park and Preserve. We endorse this well-designed and useful project. It is modeled after studies conducted by the Department of Fish and Game Division of Subsistence but modified to accommodate needs associated with park management. This and all other subsistence study proposals should be discussed in advance with the Lake Clark Subsistence Resource Commission, and the members' concerns and suggestions

should be given serious consideration. We strongly support the recommendation that this study be conducted through a contract (cooperative agreement) with the DFG's Subsistence Division.

Pages 141-143, S-02 Conduct Ethnography of Subsistence Use Patterns. This is another useful project but may not require the level of funding over a four-year period as proposed. Linkages should be established between this study and Project S-01.

Page 144. ANILCA Title VIII does not require "*the Federal Government . . . to provide a subsistence priority for hunting and fishing*". Title VIII provides an individual subsistence priority right to rural residents and establishes a judicial remedy for parties who believe their priority for subsistence uses is not being met. Congress did not grant the Department of the Interior authority to manage fish and wildlife.

Pages 146-147, S-04 Administer Subsistence Program. One of the recommended actions calls for the continuing Service presence at public and other meetings, whereas one of the issues described on page 135 states that public meetings "*tend to attract the same minority of vocal residents*" and that "*Little effort has been made to solicit opinions and information from local residents on a one-to-one basis.*" More emphasis should be placed on the latter form of interaction if the NPS believes it will provide more meaningful input. We also repeat our call for continued coordination and communication with the Lake Clark Subsistence Resource Commission.

### Access

When the state and National Park Service developed the guidelines and agreements for preparation of resource management plans in Alaska, it was agreed that the plans would acknowledge the need to conduct studies to document traditional (pre-ANILCA) access. This draft plan not only fails to address this subject, but includes several incorrect references to ANILCA provisions regarding access in the park units. We request that both the Natural Resources and Subsistence sections of the plan identify the need to conduct traditional (pre-ANILCA) access studies, in part because such base of information is needed to assure continuance of ANILCA-protected activities and to study impacts of access methods.

Page 136, "*to allow the use of ATV's and other modes of transportation currently not allowed under regulation.*" This statement is incorrect because regulations do allow ATVs (both 36 CFR Part 13 and 43 CFR Part 36). Despite the fact that law and regulation do allow such transportation, the Service has not conducted studies of traditional (pre-ANILCA) access, hence

failed to perform the necessary requirements to designate routes and areas for ATVs. Consequently, for more than a decade, access for ANILCA-protected traditional activities have been subject to defacto closure.

### Objectives

Throughout the discussions of objectives (pages 4-6) the plan fails to include recognition of the many traditional uses and activities (beyond subsistence) which are protected by ANILCA on conservation system units. It would be helpful to include discussion of some of the differences in public uses and management actions prescribed for Alaska park/preserve units.

Page 5, last paragraph. We request the description of differences between park and preserve management be revised to more closely parallel ANILCA Section 1313 (e.g., as quoted on page 25).

We also request the paragraph be clarified so that readers do not erroneously interpret the adjective "sport" to modify "trapping". We note that generally the plan accurately reflects this, but we nevertheless remind the Service to continue to be very sensitive to the Congressional decision to not categorize trapping.

### Purpose of Plan

We are very pleased to see this section of the plan (page 7) explain that the review and revisions processes will include public and state involvement, as was agreed to with the state. We request, however, that before the final plan is prepared, the authors carefully review the step-by-step procedure for state and public involvement which was outlined in the Yukon-Charley plan to assure that process is reiterated in this section. We also request the following specific correction.

Page 6, C. Purpose of Plan. We object to the Service intent: "...will implement the resource management objectives described in the Statement for Management". We continue to strenuously object to any use of the Statements for Management in preparation of planning documents for Alaska park units. These documents were not developed cooperatively with the state and public, as required of general management plans (ANILCA Section 1301) yet preceded the development of the general management plans for each park unit. Therefore, the state believes any restraints upon uses and activities derived from the Statements for Management are without authority in Alaska. Planning and management provisions in park units in Alaska are considerably different than in the other 49 states, particularly regarding required state and public participation and allowed uses. We request appropriate corrections.



Landownership

Page 14, Wildlife and Fish (last paragraph). Revise to read:  
"Razor clams are harvested on state tidelands during low tides in the spring . . ."

Page 28, Land Status. The first paragraph reflects a common misunderstanding: "The remaining lands are managed by the National Park Service pending determination of ownership." We suggest the plan accurately paraphrase or quote the definition of federal public lands in ANILCA Section 102. For example, valid state and native land selections are not federal lands subject to regulations specific to conservation system units (Sec. 103(c)). This includes over-selections if "valid".

Pages 73, 75, and 78. Delete the following inaccurate statement: "The Alaska Lands Act implies cooperative state and federal management of aquatic resources in navigable waters." Title I of ANILCA specifically excludes nonfederal public lands from conservation system unit regulations. We suggest the statement be replaced with an acknowledgement that the Service would like to cooperate with the state in management of resources in the state's navigable waterways.

These pages also contain the following language: "Under the Alaska Statehood Act of 1958 and the Submerged Lands Act of 1953, submerged lands and the water column of navigable waters in the park and preserve are owned by the State of Alaska once conveyed." The term "once conveyed" is misleading in this context. These lands automatically transferred to state jurisdiction at the time of statehood. No conveyance process was or is involved in this transfer.

Water Rights

If this plan does not directly change or make recommendations concerning public use, it is not necessary to include the State's guidelines for management of the beds of navigable waterbodies. The plan should, however, acknowledge the role of the State regarding water rights. To do this, we request inclusion of the following language:

Federal reserved water rights are created when federal lands are withdrawn from entry for federal use. They are created for the minimum amount of water reasonably necessary to satisfy both existing and reasonable foreseeable future uses of water for the primary purposes for which the land is withdrawn. The priority date is the date the land is withdrawn for those primary purposes.

Federal reserved water rights in Alaska can be claimed and adjudicated in basin-wide adjudications in conformance with

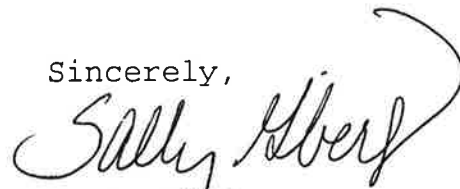
the McCarran Amendment under state law, AS 46.15.165-169 and 11 AAC 93.400-440, either administratively or judicially. Alternatively, federal water rights may be applied for and granted under state law for either out-of-stream or instream water rights. In any case, water claimed or requested must be quantified.

The Service will work cooperatively with the State of Alaska to inventory and quantify its federal water rights under state law. Water resources of the Lake Clark National Park and Preserve will be managed to maintain the primary purposes for which the unit was established.

In addition to federal reserve water rights, the plan should note that a federal agency can apply for water rights through the existing state water rights system. By applying for water rights through the State it will, in many cases, provide the NPS with the senior water rights and save both the State and federal government the cost of a federal reserve water right adjudication. The issuance of state water rights will not preclude the federal agency from applying for its federal reserve water rights in the future if the need arises. The Alaska Water Use Act also allows public agencies to apply for reservations of water for instream uses including fisheries, recreation, and water quality purposes.

Thank you for the opportunity to provide these comments. If we can be of assistance in clarifying any of these concerns, please call me at 561-6131.

Sincerely,



Sally Gibert  
State CSU Coordinator

cc:

Ralph Tingey, Superintendent, Lake Clark NP&Pr

John Morehead, Regional Director, NPS

Harry Noah, Commissioner, Department of Natural Resources

Carl Rosier, Commissioner, Department of Fish and Game

John Sandor, Commissioner, Department of Environmental  
Conservation

Bruce Campbell, Commissioner, Department of Transportation and  
Public Facilities

Richard Burton, Commissioner, Department of Public Safety

John Katz, Governor's Office, Washington, D.C.

**CSU Distribution List  
Lake Clark RMP  
October 7, 1993**

*Tina Cunning, Department of Fish & Game, Anchorage*

*Terry Haynes, Department of Fish & Game, Fairbanks*

*Priscilla Wohl, Department of Environmental Conservation, Anchorage*

*Alice Iliff, Department of Natural Resources, Anchorage*

*Jeff Otteson, Department of Transportation/Public Facilities, Juneau*

*Paul Rusanowski, Division of Governmental Coordination, Juneau*

*Colonel Phil Gilson, Fish & Wildlife Protection, Anchorage*

*Stan Leaphart, CACFA, Fairbanks*