



December 5, 2019

Jennifer Johnston
Outdoor Recreation Planner
Denali National Park and Preserve
P.O. Box 9
Denali Park, AK 99755

Dear Ms. Johnston:

The State of Alaska reviewed the Fall 2019 Winter and Shoulder Season Plan (Plan) and public outreach and provides the following comments. These comments supplement our scoping comments dated December 6, 2018 and represent the consolidated views of state resource agencies.

We appreciate the Service's efforts to consider various ways to expand recreational opportunities within the park during the winter and shoulder seasons when use is low, especially in comparison to the summer season. One of Denali's primary purposes, recognized both in the original Mount McKinley National Park (Mount McKinley) legislation and in the Alaska National Interest Lands Conservation Act (ANILCA), is the importance of providing recreation opportunities to the public within Denali.¹ We are supportive of the following Concepts presented in the plan, which, consistent with park purposes, provide greater opportunities among the proposed Concepts to increase winter recreational opportunities within Denali, while protecting park resources.

- Winter Road Plowing -- Concepts D and E
- Spring Road Access – Concept D
- Trails – Concepts D or E
- Visitor Center – Concept B
- Public Use Shelters – Concepts C or D
- Other Visitor Opportunities – Concepts B, C or D

Unfortunately, the plan does not accurately reflect certain access and use provisions in ANILCA; therefore, many of the following comments focus on these issues.

Plan Scope

The objectives section of the plan appears to assume that the only motorized access to the park is occurring on the Park Road, or within the southern additions that are outside the scope of the plan. Being

¹ Mount McKinley's founding legislation stated that the park regulations were "primarily aimed at the freest use of the said park for recreation purposes by the public..." (39 Stat. 938, Sec. 5); ANILCA Sec. 202(3)(a) states that one of Denali's primary purposes is: "to provide continued opportunities, including reasonable access for mountain climbing, mountaineering and other wilderness recreational activities."

a “welcoming place for all visitors” (page 12) should include activities and motorized access that are both allowed under ANILCA and occurring in specific areas of the park. We suggest clarifying the types of activities the plan focuses on and the types of activities that are not subject to this plan. If the intent is to focus on all winter and shoulder season recreation, there should be some recognition of hunting within the preserve and the shoulder season use of motorboats in Preserve areas, particularly motorboat use in the Kantishna and Muddy Rivers areas during subsistence and general hunting seasons. In addition, the plan should recognize the allowance in ANILCA 1316(a) to use temporary facilities in support of the take of fish and wildlife. If a narrower focus is desired, rather than not acknowledging these activities are occurring, the Plan scope should be limited to visitor use in the Old Park.

Eligible Wilderness

The Plan references and applies proposed management direction for “eligible” and “ineligible” wilderness throughout but does not define or provide any context for these terms or the studies that determined the status of these lands. It also inappropriately indicates that lands the NPS has determined to be “eligible” for further study and recommendation as designated wilderness will be managed as designated wilderness (i.e., subject to Extent Necessary Determinations, and the implication that there may be no guided use in these areas, etc.)

We understand that national policies provide general direction to manage “eligible” lands to protect wilderness character (NPS 2006 Management Policies and Director’s Order #41: Wilderness Stewardship, dated May 13, 2013). However, the policies are also very clear that protecting “eligible” lands is intended as a short-term measure in the wilderness study process. It is not intended as a stopgap measure to protect “eligible” lands indefinitely. This circumvents Congress’ authority to designate Wilderness, and, here in Alaska, exceeds the limited authority granted in ANILCA to conduct wilderness studies.

Director’s Order #41 includes an important caveat regarding Alaska:

It is important to note that these policies may in some instances be superseded by statutory provisions that apply to individual wilderness areas, by rights reserved by former landowners and, in Alaska, by applicable provisions of the Alaska National Interest Lands Conservation Act (ANILCA).

ANILCA Section 1317 provides limited authority for the NPS to study all lands within the unit boundaries not already designated by the Act, as to their “suitability or nonsuitability for preservation as wilderness” and requires findings be reported to the President within 5 years of the enactment of the Act (i.e., 1985); wilderness recommendations were to be forwarded by the President to Congress within 7 years (i.e., 1987). In contrast, ANILCA Section 1320 granted the Bureau of Land Management continuing authority to conduct wilderness studies and make recommendations “from time to time.” Whereas, ANILCA Section 1326(b) prohibits further studies for the single purpose of establishing new conservation system units (CSUs) (wilderness and wild and scenic rivers are defined by ANILCA as CSUs) *unless directed by ANILCA or a further Act of Congress.*

The NPS completed the studies mandated in Section 1317 and the signed 1988 Record of Decision for Denali National Park and Preserve recommended Congress designate an additional 2.25 million acres as wilderness. However, the recommendations for all park units were never forwarded by the Secretary of Interior to the President or Congress for consideration. The timeline for completing this designation has long since expired and Congress has provided no additional authority to conduct new studies in Alaska. Implementing policy and planning direction to protect “eligible” lands – lands which have been neither recommended to Congress nor designated by Congress, is in direct violation of the Wilderness Act and ANILCA. We request the management prescriptions treating “eligible” land as designated Wilderness be removed from the plan. If retained, at a minimum, the plan needs to define these terms and provide context for the land status.

Page Specific Comments

Pg. 6 – For clarity and to ensure readers understand what activities occur in the southern park additions, northwest of the Parks Highway, please describe the use patterns that are “very different” from other areas of the park, keeping in mind that snowmachine use is not limited to the southern additions.

Pg. 12 – Last paragraph, first sentence: The seasonal (May to September) roadside strip of hotels and restaurants outside the entrance area of the park is a commercially developed area. Please replace “urban” with “commercial” and provide additional context; we suggest the following edits:

Previous park management documents have emphasized that the visitor experience transitions from ~~urban~~ commercial to rustic to primitive environments as one travels from outside the park entrance west along the Park Road corridor (NPS, 1997; NPS, 2007; NPS, 2012).

Pg. 13 – **Foster safety....** The work environment is not discussed in this section. We recommend it either be deleted in the header or included in the discussion. We also recommend adding information on the use of winter shelters in areas outside designated wilderness here.

Pg. 22 – Rather than making the reader look up the definition of backcountry day use area in other plans, please provide the definition in this plan.

Pg. 23 – We recommend the following changes to the text in Table 5 (Winter/Resources) to clarify that motorized activity is appropriate:

Motorized use is allowed and might be present in the Kantishna area for traditional activities, including subsistence, but occurs at relatively low levels.

Pg. 35 - **Unplowed/Closed Section of Park Road.** The plan should recognize that the park is open to e-bikes pursuant to Secretarial Order 3376, which was implemented through the Denali Park Compendium Addendum issued September 30, 2019. We request the following edits:

Winter – Section of unplowed Park Road

Access to the unplowed section of the Park Road during the winter season would continue-by nonmotorized means only. Walking, snowshoeing, skiing, biking (to include e-biking), and mushing may all be accommodated simultaneously on the unplowed road.

Shoulder Seasons – Section of Park Road closed to public vehicle traffic (typically west of Teklanika rest area)

Visitors could continue to access the closed section of the Park Road by non-motorized means, including as pedestrians or cyclists (to include e-biking), in the shoulder seasons.

Pg. 36 – **Kantishna**. This subsection should be revised to recognize ANILCA allowances for subsistence and general public use of snowmachines in the Kantishna area. We propose replacing the second paragraph with the following language.

~~Snowmobile use in Kantishna and other new park additions areas has occurred in the past. No changes to management of this use are proposed at this time.~~

The use of snowmachines is permitted in the Kantishna area and other new park additions, in accordance with ANILCA Sections 811 and 1110, for subsistence (43 CFR 13.46), other traditional activities and for travel to and from villages and homesites during periods of adequate snow cover or on frozen rivers (43 CFR 26.11(c)).

Pg. 36 – **Backcountry and Wilderness Areas**. Aircraft landings should not be limited to non-commercial use. We propose the following revision:

Visitor access to the designated wilderness area of Denali is primarily via non-motorized means. Landings of ~~noncommercial~~ fixed wing aircraft are also allowed.

By specifying “noncommercial fixed wing aircraft” in this section, the plan implies that only “non-commercial” fixed wing aircraft are allowed for accessing backcountry and wilderness. This characterization of ANILCA protected access is inaccurate. ANILCA authorized the “use of...airplanes...for traditional activities” in all conservation system units, including designated wilderness. ANILCA 1110(a) does not preclude chartered aircraft and Section 4(c) of the Wilderness Act allows for commercial enterprise in designated Wilderness if determined necessary.² Visiting Alaska’s remote public lands already requires extensive planning and expense, limiting much of the public’s ability to experience these areas. Further limiting these public lands to only those able to afford and fly private planes is contrary to congressional intent in ANILCA. We request the NPS replace throughout the plan the phrase “non-commercial fixed wing aircraft” with “fixed wing aircraft” as defined in DOI Title XI regulations at 43 CFR 36.11.

² “Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, **except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act**.....(Emphasis added, Section 4(c) of the Wilderness Act).

Pg. 36 – **Backcountry and Wilderness Areas.** The “ineligible wilderness” descriptor is unnecessary and captured in the reference to “backcountry and wilderness areas.” Please revise the following sentence as follows: “The backcountry and wilderness areas include the ~~ineligible wilderness~~ area surrounding Wonder Lake.”

Pg. 46 – **Public use shelters placed on the road corridor only.** We concur with the plan proposal to locate groups of quinzee shelters in relative proximity as this would also provide for the health and safety of winter and shoulder season visitors. However, the plan asserts that establishing public use shelters in designated wilderness would not be needed for health and safety since no public use shelters have been available for over 100 years. Yet the Service has maintained 14 cabins for winter patrols for the health and safety of the rangers (see the November 25, 1986 National Register of Historic Places Inventory Nomination Form Patrol Cabins, Mount McKinley National Park). Without public use shelters, Denali Park and Preserve’s 6 million acres are inaccessible to the public during the winter season except for rangers and a handful of the most well-equipped travelers.

This discussion also presents the allowances in ANILCA for retaining existing cabins and shelters and for the construction of new cabins and shelters in wilderness for health and safety reasons as a limitation, pursuant to the Wilderness Act, rather than as an Alaska-specific exception. Given the extreme and unpredictable weather conditions in Alaska, especially in the winter and shoulder seasons, the allowance for cabins and shelters is easily justified. We request the plan include concepts that allow public cabins and shelters in designated wilderness.

Pg. 51 – **Kantishna, Winter.** The Plan states “Guided non-motorized recreation could take place in the Kantishna area, especially within ineligible wilderness areas. Commercial non-motorized recreation in eligible and designated wilderness areas is subject to an Extent Necessary Determination.” This language conflicts with the language on page 49, which we concur with, regarding commercial service activities—Extent Necessary Determinations are only necessary in designated Wilderness. As noted above, applying Wilderness Act restrictions to lands that have not even been recommended to Congress for designation is inappropriate and not consistent with the intent of the Service’s policy. Further, snowmachine use is an allowed public use in the Kantishna area. There is no basis for not allowing guided motorized recreation where allowed by the general public. Please revise as follows.

“Guided ~~non-motorized~~ recreation ~~could~~ may take place in the Kantishna area, subject to obtaining a commercial use authorization from Denali. ~~especially within ineligible wilderness areas.~~ Commercial ~~non-motorized~~ recreation in adjacent designated wilderness areas is subject to an Extent Necessary Determination.”

Pg. 72 – Please add a definition for “backcountry” as it is used throughout the document in conjunction with, yet separate from, “wilderness.”

ANILCA Section 1301 directs the Service to work closely with the State and others in the development of management plans for Alaska park units. The State appreciates the earlier outreach and discussions with you and other park staff in the early stages of this planning process. Unfortunately, we were not aware that the plan was released for public comment and as a result, were unable to provide comments

by the published deadline. To ensure there is ample time available for distribution among state agencies, please include me in future distributions of this plan. We are also available to meet with you to discuss these comments and work with you on further development of the plan.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Magee". The signature is fluid and cursive, with the first letter of the first name being a large, stylized 'S'.

Susan Magee
ANILCA Program Coordinator