



June 30, 2020

Denice Swanke, Acting Superintendent  
Denali National Park and Preserve  
P.O. Box 9  
Denali park, AK 99755

Dear Ms. Swanke:

The State of Alaska reviewed the Denali National Park and Preserve (Denali) Winter and Shoulder Season Visitor Services Environmental Assessment (EA). The following comments represent the consolidated views of state resource agencies.

As indicated in our previous comments on the plan, we continue to support the intent in the EA's preferred alternative to provide increased access and visitor opportunities during the winter and shoulder seasons. However, we are very concerned with the EA's reliance on several, seemingly independent documents to provide management direction for the park, all of which have different scopes, as follows:

- 2019 Denali Winter and Shoulder Season Plan (Plan) – applicable to the entire park and preserve except for the southern ANILCA park additions.
- 2020 Denali Winter and Shoulder Season Visitor Services EA proposed actions and ANILCA Section 810 analysis – applicable primarily to the frontcountry
- 2020 Denali Winter and Shoulder Season EA Appendices B and C – applicable to the entire park and preserve.
- 2006 Denali Backcountry Management Plan – applicable to all park and preserve lands, except the park road corridor and adjacent development zones and backcountry day use areas that were addressed in the 1997 Entrance Area and Road Corridor Development Concept Plans.

Since the EA analyzes only select actions related to the 2019 planning “concepts,” it is unclear whether the subset of actions analyzed in the EA and selected in the final decision document will guide management of the park or if the 2019 Plan will continue to serve that purpose. We also note the title to the 2019 Plan differs from the EA, which is entitled “2020 Denali Winter and Should Season **Visitor Services** EA (emphasis added), adding another element of confusion and potential conflict.

These documents also barely recognize the recreation related purposes as established by the enabling legislation for Mt. McKinley National Park and the Alaska National Interest Lands Conservation Act (ANILCA), nor do they recognize the special access, commercial service, and other relevant provisions in ANILCA that apply to the entire park and preserve, including the original park.

Further, Appendix B, the Extent Necessary Determination, Commercial Services for Non-Motorized Winter Activities in Denali Wilderness (END) asserts that it amends the 2006 Denali Backcountry Management Plan (BCMP) even though it has undergone no prior public review. The BCMP was analyzed in an Environmental Impact Statement and involved extensive coordination and consultation with the State of Alaska and other stakeholders, as well as being the impetus for the Denali Overflights Advisory Council (Council). The Council was charged with advising the NPS on ways to mitigate sound impacts from aircraft overflights, develop voluntary safety measures, and achieve desired resource conditions as outlined in the BCMP.<sup>1</sup> The END is limited to non-motorized activities, indicates it applies to the entire park and preserve, and is not limited to the activities proposed in the EA. Further, the END mischaracterizes the BCMP as providing “some preliminary guidance” and does not clarify how it even relates to or amends the BCMP. Amending a plan in this manner is inappropriate and completely disregards the administrative and public processes mandated to ensure consistency, transparency, and procedural due process.

ANILCA Section 1301 provides specific planning direction for Alaska park units, including explicit direction to include a public process for any amendments or revisions. To ensure compliance with these statutory requirements, we strongly recommend the Service align the EA appendices with the proposed actions in the EA and ANILCA 810 analysis; clearly state how the 2019 plan is modified in the EA’s final decision; and remove any stated intent in the END to modify the BCMP.

### **Denali’s Recreational Purposes and ANILCA Exceptions for Wilderness**

From its earliest establishment (1917), Denali has served as “a public park for the benefit and enjoyment of the people.” The original statute instructed the Secretary of the Interior to publish rules and regulations “aimed at the freest use of the said park for recreation purposes by the public.” We are encouraged to see this forward movement in fulfilling Congress’ intent to provide visitor opportunities for wilderness recreation. We believe that the proposed activities and allowances for commercial guiding will facilitate this.

The EA should more strongly emphasize Denali’s recreational purpose identified in ANILCA Section 202(3)(a): “...to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering and other wilderness recreational activities.” Denali’s Foundation Statement also emphasizes the importance of recreation opportunity:

Denali preserves wilderness character and offers superlative opportunities for remote wilderness recreation—where evidence of human use is minimal—that is easily accessible compared to other Alaskan wilderness. Outstanding cross country hiking, backcountry camping, and winter touring possibilities are available for those willing to approach the area in its natural condition. This huge park contains large areas with almost no trails and with minimal to nonexistent evidence of modern human use. These conditions are in contrast to most wilderness areas in the contiguous 48 states, where maintained trails, designated campsites, footbridges, and signs are standard.

The analysis in the EA focuses primarily on the impacts of trails and visitor facilities to wildlife and to the visitor experience while minimizing the benefits of properly routed trails and visitor facilities to both wildlife and visitors. We request the EA recognize these important benefits.

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<sup>1</sup> <https://www.nps.gov/dena/getinvolved/aoac.htm>.

The EA's analysis also frequently speaks to natural sound disturbances by increased vehicle access along the park road. Unlike wilderness management in other states, ANILCA amends the Wilderness Act to allow motorized transportation (Sections 811 and 1110) and motorized equipment (Section 1316) and other uses in designated wilderness in Alaska. While some of these allowances are not applicable to the proposed actions in the EA, for proper context, the analysis needs to recognize the exceptions in ANILCA that apply in Denali's designated Wilderness.

We are disappointed to see that the use of seasonal quinzees or other shelters was not carried forward into the proposed EA, as our scoping comments on the 2018 public outreach materials for the plan supported providing safe shelter to help visitors experience the park in winter, as allowed by ANILCA. We are pleased the plan indicates they may be considered in the future and request that be emphasized in the final decision document.

### **Appendix B: Extent Necessary Determination, Commercial Services for Non-Motorized Winter Activities in Denali Wilderness**

Based on our attendance at the June 11, 2020 webinar, we understand that the EA is focused specifically on the original park while the END covers both designated and eligible wilderness across the entire park. As already stated, including a park wide document in the Appendix of an EA that only addresses a proposed activity in a section of the park is inappropriate, as well as confounds the organization of the document and is confusing to the public.

We recognize that direction in the Service's 2006 Management Policies states that eligible wilderness will be ... managed to preserve its wilderness characteristics [and that] ...-use by commercial guides will not negatively impact future wilderness designation. However, the eligible Wilderness was identified in a review authorized in ANILCA Section 1317 and was to be completed within five years. In addition, the Service's recommendations from that review were never submitted to Congress for action. Managing eligible wilderness as designated wilderness indefinitely when Congress has nothing to act upon is not only misleading, it is inconsistent with explicit direction in ANILCA. We request all references to eligible wilderness in the END be removed.

We are also concerned with the minimal incorporation of ANILCA in the END's analysis and finding regarding the need for commercial services for non-motorized winter activities within designed Wilderness. Congress is clear that visitors and recreation, in particular *wilderness* recreation, are an integral part of Denali's purposes in both ANILCA and the 1917 founding legislation.

Given the vast, roadless park area, as well as the challenging winter weather conditions that make up the winter and often shoulder seasons, commercial guiding services are critical to providing opportunities for many people to experience primitive and unconfined types of recreation. The EA states that "Increased interest in Alaska winter tourism from independent travelers and tour groups began a steady increase in winter and shoulder season visitation to the park, beginning around 2012." (pg. 31) The EA also references increased interest from tour groups, which supports the need for guides to not only provide opportunities, but also to ensure visitor enjoyment by educating visitors on, for example, winter wildlife and habitat, proper safety in cold, remote situations, and how to use skis and snowshoes.

Considering ANILCA's allowances, it is inappropriate to have a sentence in a document discussing an Alaska wilderness stating: "These prohibitions relate to mining, permanent road construction, motorized equipment, landing of aircraft, installation of structures, and commercial enterprise." (page 8, paragraph 1, Appendix B) There are provisions in ANILCA that create exceptions to all of these Wilderness Act

“prohibitions.” Please remove this sentence or supplement with ANILCA context for designated Wilderness in Alaska. The *Alaska Supplement to the Minimum Requirements Decision Guide*, which was cooperatively developed by the Department of Interior agencies, including the Service, in cooperation with the State of Alaska, summarizes these exceptions and is referenced in NPS Reference Manual 41. We request it also be used for reference and documented in the END.

*National Park Service Wilderness Policies (Appendix B, Page 8)*

All of the following documents emphasize the importance of considering the additional legislative requirements of ANILCA in park and wilderness planning. Given this clear direction, we request the final EA or an Errata sheet include ANILCA references. This includes incorporating reference to the *Alaska Supplement to the Minimum Requirements Decision Guide*.

2006 NPS Management Policies, Section 6.4.4:

The additional legislative requirements of ANILCA, although not cited, must also be considered in the interpretation and application of these policies, as must all other applicable legislative requirements. It is especially important that superintendents and other park staff review their park’s enabling legislation to determine whether it contains explicit guidance that would prevail over Service-wide policy. (NPS, 2006, p. 4)

In Director’s Order 41, Wilderness Stewardship:

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). (NPS, 2013, p. 2)

Parks in Alaska must consult RM 41 to ensure that their minimum requirement analysis process is consistent with the provisions of ANILCA. (NPS, 2013, p. 9)

2006 National Wilderness Steering Committee, Guidance White Paper Number 3:

In Alaska both the Departments of the Interior and Agriculture use a process to determine and document the Minimum Requirements for agency actions within wilderness ... The Minimum Requirements Decision Process and Guide serve as starting points to be tailored by local decision-makers at the park level with the understanding that consideration of provisions of subsequent legislation, such as those found in ANILCA, will be incorporated. Agency decision makers in Alaska are aware that ANILCA contains special provisions for wilderness management. Those ANILCA provisions should take precedence over national administrative guidelines with broad national scope. Refer to the Alaska Supplement to the Minimum Requirements Decision Guide for adapting the process to Alaska wilderness units. (NPS, 2006, p. 10)

Commercial Services in Wilderness Guidance for Determination of Extent Necessary:

The only structures or facilities used in support of such commercial services that are allowed in wilderness are temporary shelters, such as tents, which must be removed from the wilderness after each trip unless exceptions are clearly identified in the park’s Wilderness Stewardship Plan. There may also be specific exceptions to this policy identified within individual park wilderness

enabling legislation. Additionally, parks and units in Alaska should refer to specific requirements under the Alaska National Interest Lands Conservation Act (ANILCA). (NPS, 2014, p. 2)

*2006 Denali Backcountry Management Plan (BCMP) (Appendix B, Page 8)*

This section of the END states that the BCMP notes the park road corridor and adjacent development zones and backcountry day use areas are addressed in the 1997 Entrance Area and Road Corridor Development Concept Plan. Please reference this Plan and include a summary of its applicability. The language below, from the BCMP should be included.

Wilderness Recreation. Denali offers superlative opportunities for primitive wilderness recreation. Outstanding cross-country hiking, backcountry camping, and winter touring possibilities are available for those willing to approach the area in its natural condition. This huge park contains large areas with almost no trails and where evidence of human use is minimal to nonexistent. These conditions are in contrast to most wilderness areas in the contiguous 48 states where maintained trails, designated campsites, footbridges, and signs are standard. These conditions also contrast with much of Alaska, where similar opportunities abound, but are very difficult to reach. A large portion of Denali's backcountry is readily accessible to visitors who can reach the park by either highway or railroad from either Anchorage or Fairbanks – Alaska's two largest cities and major connection points for out-of-state visitors. (NPS, 2006, p. 11)

### **Page-specific Comments**

Page 4, Chapter 2. Objectives of the proposed action: We request that the rationale for offering visitor services and opportunities, and for providing adequate and appropriate access to the park, include reference to the intent found in the park's establishing legislation. Congress is clear in both the founding legislation for DNPP (*In 1917 Congress established Mount McKinley National Park as a "game refuge" to "set apart as a public park for the benefit and enjoyment of the people ... for recreation purposes by the public ...*), as well as in ANILCA, that visitors and access for wilderness recreation are an integral part of Denali.

Page 7, Wilderness: The listed issues should discuss the positive aspects of the proposed action and not just the negative impacts. We propose the following revision:

Wilderness: Allowing commercial use in wilderness for non-motorized recreation could impact wilderness character and affect opportunities for primitive and unconfined recreation, and a small seasonal bridge near Mountain Vista would be an installation in wilderness. However, allowing commercial use in wilderness could aid the park in meeting the recreational, scenic and educational purposes of the Wilderness Act. The installation of the small, seasonal bridge may increase visitors' ability to experience a wider range of the park. As the most road accessible wilderness park in Alaska, Denali provides a unique opportunity for introductory visitors to wilderness to gain a wilderness experience. By allowing for commercial guided experiences, wilderness novices may gain a better understanding of wilderness and its risks as well as its beauty.

Page 8, Appendix B, Law, Policy and Planning Guidance: This section makes no reference to either of the establishing pieces of legislation relevant to Denali. Please add the two enabling statutes, An Act to Establish Mount McKinley National Park, S. 5715, February 26, 1917 and ANILCA, to Part 1. As ANILCA amends the Wilderness Act, regarding wilderness administration in Alaska, it is critical that the Wilderness Act and ANILCA are looked at in tandem while preparing the END.

Page 11, Appendix B: We appreciate that this section recognizes Denali Wilderness is subject to ANILCA allowances. We request that these allowances be specifically identified to ensure readers can clearly identify the Alaskan specific wilderness allowances, in particular allowances for motorized uses and cabins and shelters for the protection of public health and safety.

Page 13, Appendix B, *Does the Commercial use have to occur in wilderness?*: We request this section reference the Denali Foundation Statement, (see our statement earlier in this letter) which specifically calls out Denali's unique recreational aspects compared to other lands in Alaska.

Page 17, Chapter 5: Please revise the first sentence as noted below to clarify there are other purposes than the ones listed.

*Denali National Park was established in 1917, among other purposes, to protect populations of wildlife, and the varied habitats throughout the park support numerous species.*

Thank you for this opportunity to comment. We would appreciate an opportunity discuss these comments further with Service staff. Please contact me at (907) 269-7529 to schedule a follow up meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Magee". The signature is fluid and cursive, with a large initial "S" and a long, sweeping tail.

Susan Magee  
ANILCA Program Coordinator