



February 18, 2022

Jeffrey Rasic, Superintendent  
Yukon-Charlie Rivers National Preserve  
101 Dunkel Street, Suite 110  
Fairbanks, AK 99701

Dear Mr. Rasic:

The State of Alaska reviewed the proposed changes to the 2022 Yukon-Charlie Rivers National Preserve Compendium. The following comments represent the consolidated views of state resource agencies.

The following comments are specific to the National Park Service's (Service) intent to allow seasonal cutting of dead standing wood to heat public use cabins and temporary shelters within the Yukon-Charlie Rivers National Preserve (Preserve). We appreciate the Service's recognition of the unique conditions in Alaska that warrant different management techniques here compared to parks and preserves in the Lower 48. However, we have concerns regarding the proposed restrictions associated with the cutting of dead timber from the Preserve under 36 CFR 13.35(d). Unfortunately, certain conditions within the allowance negate its otherwise positive contributions to forest health and the health and safety of users, including hunters, trappers, and fishers, in remote areas of the Preserve.

Congress included specific provisions within the Alaska National Interest Lands Conservation Act (ANILCA) specifying how federal land management agencies in Alaska must manage federal lands, including lands designated as wilderness, differently than federal lands in other states. This unique management is needed to facilitate a variety of economic, social, and cultural uses in Alaska. The winter activities that occur in the Preserve related to the take of wildlife are a fundamental part of our culture, traditions, and history as a state. Through the exceptions specified in ANILCA, Congress intended to ensure that federal agencies allow these uses to continue on federal public lands. Included within the Service's responsibility for public land management in Alaska is a responsibility to maintain and provide opportunity for safe and responsible traditional activity use. Therefore, recognizing the original intent of the proposed change in the compendium is to allow cutting of dead standing wood during fall/winter conditions for the purpose of heating public use cabins and temporary shelters within the Preserve, which we fully support, we object to the following associated specific restrictions, as explained further below.

- Prohibition on the Use of Chainsaws in "Eligible Wilderness" is Unfounded and Needlessly Endangers Users
- Restrictions on Wood Stacking and Caching is Counter to a Major Tenet of Cabin Use in Alaska
- Certain Tree Cutting Restrictions are Impractical
- Distance Requirements Create Fire and Public Safety Hazards and are Difficult to Determine

## Prohibition on Use of Chainsaws in “Eligible Wilderness” is Unfounded and Needlessly Endangers Users

### ISSUE:

- Prohibition on chainsaw use on lands administratively identified by the Service as “eligible wilderness” needlessly and unlawfully endangers winter users, including hunters, trappers, and fishers.

### PROPOSED RESOLUTION:

- Allow the use of chainsaws in all areas of the Preserve from September 1 through April 30 to cut standing dead trees for heating public use cabins and temporary shelters within the Preserve.

### RATIONALE:

Hunting, trapping, ice fishing, and other activities in the winter in Alaska can be exceptionally challenging due to severely cold temperatures and limited daylight hours. Unpredictable weather patterns can both expose and strand individuals for extended and indeterminate periods of time. Given the remote nature of the Preserve, if an emergency arises, individuals are far from assistance and must rely on themselves and the limited resources available in remote field circumstances. The allowance for the use of motorized equipment, including chainsaws, on Alaska public lands is not about luxury or convenience—it is often about survival. Many Alaskans can tell a story where a night spent in a cabin with wood to supply heat made all the difference in such circumstances.

The draft compendium states most areas of the Preserve are managed as “eligible wilderness” and chainsaw use will not be permitted in these areas. No explanation is provided in the compendium as to why chainsaw use will not be allowed; however, we were advised by the Service that this prohibition is being driven by national wilderness policies that require them to maintain wilderness character in all park unit areas administratively identified as “eligible wilderness.”

We understand that the Service’s 2013 national Directors Order 41 (DO 41) states in Section 5.1: “Lands that are determined to be eligible for wilderness will be managed to preserve their wilderness character.” However, this statement in DO 41 is qualified in the last sentence of Section one of the policy, by the following:

It is important to note that these policies may in some instances be **superseded** by statutory provisions that apply to individual wilderness areas ... and **in Alaska, by applicable provisions of the [ANILCA]**. (Emphasis added)

The Wilderness Act’s prohibition on motorized equipment is therefore superseded by statute in Alaska per the allowance in ANILCA Section 1316:

On all public lands where the taking of fish and wildlife is permitted ... the Secretary shall permit, subject to reasonable regulation to ensure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary shelters **and equipment** directly and

necessarily related to the take of fish and wildlife on all public lands where the taking of fish and wildlife are permitted.<sup>1</sup>

The Service's ANILCA Section 1316 implementing regulations at 36 CFR 13.182 and 13.166 accurately apply this provision to both subsistence and non-subsistence users.

The allowance is further supported by the Service's policy directives in the 2006 Management Policies, which also clearly identify in Section 6.4.3.3 that the use of motorized equipment by the public in Alaska wilderness areas is governed by applicable provisions of ANILCA (e.g., ANILCA Section 1316). These same policies also state the use of motorized equipment within areas determined to be eligible for wilderness designation in Alaska does not make an area ineligible for wilderness designation if those practices are necessary to meet the minimum requirements for the administration of the area as wilderness (NPS Management Policies 2006, Sections 6.2.1.2 - Additional Considerations in Determining Eligibility). It is inappropriate and incongruent to prohibit the use of motorized equipment in an area considered "eligible wilderness" when, if the area is designated by Congress as wilderness, the equipment use would be allowed. Given the unique and remote conditions of Alaska park units, especially in the winter months, allowing the use of chainsaws for public safety purposes is not unreasonable.

Equipment means the tools needed to support hunting, trapping and fishing activities, which would include chainsaws, winches, etc. to ensure these traditional activities continue to occur throughout public lands in Alaska. The ability to have a warm cabin or other shelter is critical for winter use of the Preserve by hunters/trappers/fishers. The applicability of ANILCA Section 1316 to "all public lands where the taking of fish and wildlife is permitted in accordance with this Act..." means that Congress intended for it to also apply to congressionally designated wilderness areas as well as other public lands for these purposes; to conclude that these allowances do not apply to lands administratively determined as "eligible wilderness" is contrary to the intent of Congress, Service policy, and clearly illogical. Other federal agencies, for example, the U.S. Fish and Wildlife Service, clearly recognize in their policies that this allowance applies to congressionally designated wilderness.<sup>2</sup>

Further, ANILCA Section 1317 only granted the Service limited authority to conduct a **one-time** wilderness review for all park units and to submit any resulting recommendations to Congress within a specific timeframe. The Service prepared a Wilderness Suitability Review during the preparation of the Preserve's 1985 General Management Plan (GMP), which recognized that the timeframe for submitting wilderness recommendations for lands within the Preserve was limited. A 1986 Memorandum from the Department of Interior, further underscores that the Service understood the applicability of the time

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<sup>1</sup> ANILCA Section 102(3). The term "public lands" means land situated in Alaska which, after the date of enactment, are Federal lands, except – [State of Alaska land selections, Native Corporation land selections, lands referred to in the Alaska Native Claims Settlement Act, Section 19(b).]

<sup>2</sup> USFWS Manual 610 FW **5.15 What temporary facilities and equipment related to the taking of fish and wildlife does the Service authorize in Alaska wilderness areas?** Section 1316 of ANILCA authorizes the use of temporary campsites, tent platforms, shelters, other temporary facilities, **and equipment** directly related to and necessary for the taking of fish and wildlife on refuge lands in Alaska, including wilderness areas, subject to reasonable regulation to ensure compatibility. [Emphasis added]

limitations found in ANILCA Section 1317 and that presidential action on wilderness recommendations for the Preserve was required by October 1988.<sup>34</sup>

As a result, lands within the Preserve identified as “eligible wilderness” should no longer be considered as such because the wilderness recommendations associated with ANILCA Section 1317 were never forwarded by the Secretary of Interior to the President and Congress within the applicable time frame, as required in the Statute. ANILCA Section 1326(b) prohibits further wilderness reviews unless authorized by ANILCA or a further Act of Congress. Congress has not provided any further direction to the Service to conduct future wilderness studies. Therefore, the intent behind the Service’s national policy is being inappropriately applied in Alaska.<sup>5</sup>

Due to the unique landscape in Alaska, most park units have wilderness character regardless of their wilderness review status. It is therefore critical to recognize, the inappropriate implementation of this national policy, to manage “eligible wilderness” in the same manner as designated wilderness, has far reaching implications and the magnitude of this issue is not limited to the prohibition on chainsaws in the Preserve.

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<sup>3</sup> “Following analysis of public response on this suitability review, the National Park Service **may** make a wilderness proposal to the secretary of the interior, who will in turn make a recommendation regarding wilderness designation to the president and Congress. As required in ANILCA the president is to make his recommendations prior to December 2, 1987. (extended to October 1988 by memorandum from Bill Horn Assistant Secretary for Fish and Wildlife and Parks to the Director of the National Park Service, September 30, 1986.)

Regardless of this suitability review or any subsequent National Park Service proposal, wilderness can be designated only by Congress, and any subsequent change in the status and management of designated areas can also be accomplished only by Congress.” [Yukon Charlie GMP, 1985, page 110, emphasis added]

<sup>4</sup> ANILCA Section 1317. (a) **Within five years** from the date of enactment of this Act, the Secretary shall, in accordance with the provisions of section 3(d) of the Wilderness Act relating to public notice, public hearings and review by State and other agencies, review, as to their suitability or nonsuitability for preservation as wilderness, all lands within units of the National Park System and units of the National Wildlife Refuge System in Alaska not designated as wilderness by this Act and report his findings to the President. (b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3(c) and (d) of the Wilderness Act. The President shall advise the Congress of his recommendations with respect to such areas **within seven years** [emphasis added] from the date of enactment of this Act. (c) Nothing in this section shall be construed as affecting the administration of any unit of the National Park System or unit of the National Wildlife Refuge System in accordance with this Act or other applicable provisions of law unless and until Congress provides otherwise by taking action on any Presidential recommendation made pursuant to subsection (b) of this section. [emphasis added]

<sup>5</sup> ANILCA Section 1326. (b) **No further studies** of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related for similar purposes shall be conducted **unless authorized by this Act or further Act of Congress.** [emphasis added]

We request the Service recognize the applicability of these statutory and regulatory provisions and revise the proposed 2022 compendium accordingly. If not rectified, the State considers this a serious issue and requests consultation with the Service. Management strategies that blur or erase the distinction between administratively defined “eligible wilderness” and congressionally designated wilderness under ANILCA easily appear, to the public and agencies alike, as disingenuous to the processes established in law.

## **Restrictions on Wood Stacking and Caching is Counter to a Major Tenet of Cabin Use in Alaska**

### **ISSUE:**

- Restrictions on wood stacking and caching prevents users from leaving dry usable firewood for the next user—a common courtesy and public safety measure in Alaska’s backcountry, wastes resources, and is impractical.

### **PROPOSED RESOLUTION:**

- To ensure users, including hunters and trappers, have adequate firewood available in the winter or in the event of an emergency situation:
  - Allow firewood to be stacked under the eaves and within 30 feet of structures.
  - Allow for continued caching of firewood at temporary shelters for future use.

### **RATIONALE:**

The directive that “Trees will be harvested for immediate use only” is counter to a major tenet of cabin use in Alaska. The tenet requires users to leave a cabin better supplied than they found it. Every Alaska trapper, hunter, and fisher knows they must leave enough dry wood in a cabin for the next person to warm up the cabin upon arrival and dry out the wood they bring inside. Alaska winter temperatures are challenging, and it takes a long enough time to merely warm up a cabin upon arrival let alone also having to find a supply of wood beforehand.

Importantly, this directive will also cause more firewood to be cut than necessary compared to if caching is allowed in areas with frequent temporary shelter use. In a location that is conducive to repeated use as a temporary shelter site, the directive, by default, encourages users to cut firewood upon arrival if they do not randomly find “dispersed” firewood left by a previous user, which may likely be covered by snow. This will result in each user cutting wood rather than using the leftover firewood from a previous user. Cut wood cached or stacked also remains dryer and more usable than scattered cut wood and would thereby reduce the potential number of standing trees harvested near a temporary shelter site. Both stacked and scattered cut wood appear equally unnatural when a temporary shelter site is unoccupied. If arriving after dark or in inclement weather, this restriction also increases unnecessary safety risks for users.

The proposed restriction lacks rationale to prevent the caching of firewood at shelter sites and an explanation of how it would be enforced if included in the compendium. We request the Service consider the implications identified above and provide an explanation for any restrictions that are retained or revised in the final compendium.

## **Tree Cutting Restrictions are Impractical**

### **ISSUE:**

- Requirements to cut tree stumps flush at ground level at a height no greater than 2 inches and other associated requirements are impractical, especially in winter when this use will be allowed.

### **PROPOSED RESOLUTION:**

- Require cut tree stumps to not exceed a height of 8 inches above ground level.
- Require all tree limbs, tops, or unremoved debris left from cutting to be lopped, scattered, and cut in segments of a minimum of four feet.

### **RATIONALE:**

Although unspecified in the compendium, presumably, this restriction is intended to make cut stumps visually blend in with the surroundings and minimize safety hazards associated with tree harvest. This requirement is impractical, especially during winter given typical snow depths and the inability of hunters, trappers, fishers, or other users to remove rocks and dirt to avoid their saw hitting rocks and frozen ground to achieve a level cut. The lopping and scattering of slash will avoid fuel accumulations and eliminate potential Spruce Bark Beetle habitat.

Cutting stumps to 8 inches above ground level is consistent with instructions within other Conservation System Units in Alaska. (e.g., Lake Clark National Park's Compendium) and not only facilitates compliance and practicality but also consistency for users. We request the Service consider the above implications and provide an explanation in the final compendium for any limits/restrictions that are retained or revised.

## **Distance Requirements Create Fire and Public Safety Hazard and are Difficult to Determine**

### **ISSUE:**

- Requirements to harvest standing dead trees no closer than three hundred (300) feet from existing structures and no closer than fifty (50) feet from roads and paths, creates fire and public safety hazards. Requirements that trees will only be taken from areas outside of the normal view of the public and in areas where cutting will not impact other Preserve users, wildlife, or natural and cultural resources cannot be determined by public users.

### **PROPOSED RESOLUTION:**

- Remove these management prescriptions.

### **RATIONALE:**

Leaving standing dead trees in close proximity to isolated cabins increases the risk these cabins, critical for use for health and safety purposes and to facilitate winter hunting and fishing activities, will burn in a forest fire. Local wildfire response resources have minimal capabilities for any fire start located one

mile or more off the road system.<sup>6</sup> Once burned, remote cabins are unlikely to be replaced due to various funding, logistic, and policy constraints.

These restrictions are also contrary to other Service fire management program efforts to provide defensible spaces and mitigate wildfire hazards.<sup>7</sup> Dead trees pose fire and structural hazards to cabins. Additionally, dead trees are a safety hazard for people especially if they are near trails or common routes around a cabin. For these reasons, trees near cabins should be felled.

We also question the overly broad stipulation, “Trees will only be taken from areas outside of the normal view of the public and in areas where cutting will not impact other Preserve users, wildlife or natural and cultural resources.” How does the Preserve intend for hunters, trappers, fishers or other public users to discern what a dead standing tree is “outside of the normal view of the public?”

## Conclusion

We appreciate the efforts of the Service to address the important issues of forest health and the health and safety of all users in remote areas of the Preserve. However, the proposed restrictions are overly burdensome to all users. They both decrease the opportunity for use and enjoyment of the Preserve and, at the same time, fail to realize the full potential for health and safety risk reduction for users of the Preserve. We request the Service consider the implications described above and provide rationale in the final compendium for any restrictions that are retained or revised.

Thank you for this opportunity to comment. Please contact me if you have any questions or to discuss any of these issues further.

Sincerely,



Susan Magee  
State ANILCA Program Coordinator

cc: Sarah Creachbaum, Alaska Regional Director  
Scott Sample, Chief Ranger

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<sup>6</sup> <http://forestry.alaska.gov/Assets/pdfs/fire/cwpp/2020/Eagle%20CWPP%20Final.pdf>, page 12

<sup>7</sup> <https://www.nps.gov/articles/denali-crp-defensible-space.htm>