



April 6, 2022

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Submitted electronically: [marci.johnson@usda.gov](mailto:marci.johnson@usda.gov)

Dear Mr. Downs:

The State of Alaska reviewed the pre-scoping information for the proposal to re-establish hydrologic function in the Cube Cove portion of the Kootznoowoo Wilderness. According to the information provided, the surface rights to this area were purchased by the US Forest Service (Service) from Shee Atiká Incorporated in January 2020. The following comments represent the consolidated views of state resource agencies.

We generally support the proposed project and appreciate the Service's efforts to restore hydrologic function in the Cube Cove project area, which will restore wilderness character, improve stream connectivity and fish habitat, and provide for functioning wetlands and floodplains.

The project materials selectively identify provisions in the Wilderness Act, the Alaska National Interest Lands Conservation Act (ANILCA), and Forest Service national and regional policies that apply specifically to the proposed restoration activities. We take this opportunity to point out that ANILCA Section 707 states:

**“Except as otherwise expressly provided for in this Act** wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act...” [emphasis added]

ANILCA Sections 1302(a) and 1302(c) were amended in 1996 to allow for the acquisition of lands within the Tongass National Forest, and for such lands to be managed following acquisition as part of the conservation system units (CSUs) in which they are located.<sup>1</sup> As such, the acquired lands are now subject to all provisions in ANILCA that apply to CSUs (designated Wilderness is a CSU) and public lands as defined by ANILCA, including but not limited to the access provisions in Sections 811 and 1110(a). These important “exceptions” in ANILCA are intended to allow the general public, including local residents, the ability to access these areas

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<sup>1</sup> Section 5(a) of P.L. 104-123, 4/1/96

for recreation, subsistence, and other pursuits. For other applicable provisions in ANILCA and to assist with development of the Minimum Requirements Analysis (MRA), we recommend the Service consult the 2006 Alaska Supplement to the Minimum Requirements Decision Guide (Alaska Supplement, enclosed), which was cooperatively developed by the Service, Department of Interior federal land management agencies, and the State of Alaska.<sup>2</sup> The Alaska Supplement is an MRA reference document that provides a comprehensive list of all provisions in ANILCA that apply to designated Wilderness in Alaska.

We also encourage the Service to take a broader and long-term view of the restoration activities to consider the current and future needs of subsistence users and the general public, including the need for commercial operators to facilitate access and enjoyment of the wilderness area. Doing so will also avoid disturbing the area after restoration or giving the public the impression that once the work is complete, these lands must be managed solely to maintain their natural, untrammled and undeveloped character pursuant to the Wilderness Act.

For example, the pre-scoping materials indicate the airfield was determined to be outside the scope of this analysis; however, an improved airstrip may facilitate needed access to the wilderness for recreation and subsistence related activities. Likewise, improving and maintaining some of the existing roads or converting them to trails could have a similar benefit. Conducting such improvements during the restoration activities while the equipment is on site and disturbance is already underway, rather than waiting until after restoration is complete, is a logical and responsible course of action.

We are concerned that not addressing the airfield and other access needs now would preclude them after restoration is complete. The State generally supports the continued availability of airfields and other trails to provide access to CSUs statewide, as intended by ANILCA, and requests an opportunity to meet with you to discuss the access needs in this area in advance of the next planning phase.

Alaska Department of Fish and Game (ADF&G) Fish Habitat Concurrences are required for activities in fish-bearing water bodies including the following proposed actions:

- Remove culverts, bridges, and road prism material (compacted rock) where road features have a high or moderate potential to divert streams resulting in long term impacts to water quality and fish passage.
- Restore large wood in three stream reaches identified as non-functioning that are expected to further degrade.

During the concurrence process, we look forward to Service biologists working with ADF&G on construction timing windows and measures to minimize impacts to fish habitat and fish passage. Regarding concurrences, please contact Habitat Biologist Kate Kanouse at (907) 465-4290 or [kate.kanouse@alaska.gov](mailto:kate.kanouse@alaska.gov).

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<sup>2</sup> The 2006 Alaska Supplement to the Minimum Requirements Decision Guide was revised in 2016 without providing the State of Alaska, an active participant in its original development, an opportunity to participate in the revision; therefore, we are unable to recommend the 2016 version.

We also noted a minor mapping error in Figure 2, Cube Cove is inaccurately labeled as Jim's Cove. Jim's Cove is located several miles to the south at the outlet of Lake Kathleen Creek.

Thank you for the opportunity to comment regarding the Cube Cove area restoration project. We would welcome opportunities to coordinate with you, and request that you include us in future review stages of this project. Please contact me at (907) 269-0880 if you have any questions or for follow up discussions with State staff.

Sincerely,



Catherine Heroy  
ANILCA Program Coordinator

Enclosure: 2006 Alaska Supplement to the Minimum Requirements Decision Guide and Transmittal Memorandum

cc: Marci Johnson, Cube Cove Restoration Team Leader



## Memorandum

**To:** Secretary of the Interior, U.S. Department of the Interior  
Secretary of Agriculture, U.S. Department of Agriculture

**From:** Minimum Requirements Decision Guide (MRDG) Working Group for Alaska:  
Judy Alderson, National Park Service  
Brian Anderson, US Fish & Wildlife Service  
Dick Anderson, National Park Service  
Trish Clabaugh, USDA Forest Service  
Tina Cunning, AK Dept. of Fish & Game  
Sally Gibert, State of Alaska, ANILCA  
Susan Magee, State of Alaska, ANILCA  
Marti Marshall, USDA Forest Service  
Bill Overbaugh, Bureau of Land Mgt.  
George Weekley, AK Dept. of Fish & Game

**Subject:** Alaska Supplement to the Minimum Requirements Decision Guide

The Arthur Carhart National Wilderness Training Center developed the Minimum Requirements Decision Guide as a tool for use by wilderness managers throughout the United States. This MRDG Working Group for Alaska is pleased to provide the Alaska Supplement to the Minimum Requirements Decision Guide, which is designed to assist managers in adapting the MRDG for use in Alaska's wilderness areas established by the Alaska National Interest Lands Conservation Act (ANILCA). This document will be posted on the wilderness.net website along with the other related MRDG documents where it will be a key reference for all managers of designated wilderness in Alaska. It will also be valuable to other entities authorized to conduct administrative activities in wilderness.




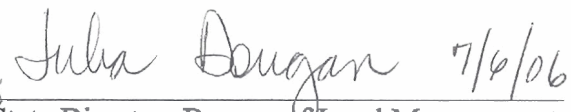
This Supplement is the result of a collaborative effort by federal and state government representatives to address the need for additional guidance in applying the MRDG, and the unique provisions of ANILCA, to administrative activities in Alaska wilderness areas.

### History and Background:

- At the direction of the four federal agencies responsible for wilderness management, the Carhart Center developed the MRDG as a tool for use by wilderness managers throughout the United States. The legislative basis for the minimum requirements decision process is contained in Section 4(c) of the Wilderness Act. Both the Departments of Agriculture and Interior use a formal process to determine and document the minimum requirements for agency actions within wilderness. This process is generally tied to, and incorporated within, National Environmental Policy Act reviews for compliance with a variety of laws, including the Wilderness Act.

- In formal comments to the Carhart Center regarding an earlier version of the MRDG, the State of Alaska expressed concern that there was insufficient attention to the unique provisions of ANILCA applicable to wilderness management in Alaska. After additional correspondence from Governor Frank Murkowski, the Secretaries of Interior and Agriculture directed their respective agency representatives in Alaska to work with the State to address these concerns. An interagency MRDG Working Group was established in the fall of 2004.
- The MRDG Working Group met regularly to produce the "Alaska Supplement" to the MRDG for use in Alaska. It is designed to help managers adapt the MRDG for use in Alaska's wilderness units established by ANILCA. The following are important clarifications about the "Alaska Supplement:"
  1. Addresses administrative and management actions only.
  2. Relies on existing laws and policies.
  3. Addresses public use provisions of ANILCA to the extent they may influence the minimum requirements analysis for administrative activities in wilderness.
  4. Does not create new policy.
  5. Does not usurp existing agency discretion; individual agency policies prevail.
- The "Alaska Supplement" underwent internal agency, general council and solicitor reviews and was modified in response to those comments. Existing agency policy in Alaska requires a documented process for determining the minimum requirement for administrative activities in wilderness. The MRDG, along with the "Alaska Supplement," is the primary tool available for accomplishing this for wilderness areas in Alaska.

Concurrence:

 6/30/06 Regional Director, National Park Service	<i>Actions</i>	 7/5/06 Regional Director, US Fish & Wildlife Service
 7/12/06 Regional Forester, USDA Forest Service	<i>Actions</i>	 7/6/06 State Director, Bureau of Land Management

Attachment: Alaska Supplement to the MRDG

cc (with attachment):

Frank Murkowski, Governor, State of Alaska  
 John Katz, Office of the Governor, Director of State/Federal Relations  
 Drue Pearce, Senior Advisor to the Secretary of the Interior for Alaska Affairs  
 Hans Neidig, Special Assistant for Alaska to the Secretary of the Interior  
 Connie Myers, Director, Arthur Carhart National Wilderness Training Center

**ALASKA SUPPLEMENT  
TO THE  
MINIMUM REQUIREMENTS DECISION GUIDE**

This supplement assists managers in adapting use of the interagency Minimum Requirement Decision Guide of the Arthur Carhart National Wilderness Training Center to Alaska's wilderness units.

2006

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## 1.0 INTRODUCTION

This document is for use by federal land management agencies that oversee administrative activities and to inform state, federal, and private entities that conduct activities within designated wilderness areas in Alaska (see 5.0). The purposes of this document are to:

- Provide the context and background to administer wilderness under the provisions of the Wilderness Act of 1964 (PL 88-577) and Alaska National Interest Lands Conservation Act of 1980 (ANILCA), as amended, (PL 96-487)
- Enhance understanding of the application of the Arthur Carhart National Wilderness Training Center “Minimum Requirements Decision Guide” (MRDG) in Alaska; and
- Encourage and facilitate communication among involved parties.

In order to increase consistency among federal agencies, this document summarizes authorized uses in designated wilderness<sup>1</sup> in Alaska and clarifies “why” and “how” federal land managers determine “minimum requirements” in the administration of wilderness areas. This document serves as the Alaska supplement for managers in adapting use of the interagency MRDG to the enabling legislation of Alaska’s wilderness units.

The Wilderness Act provisions addressed in this document are not unique to Alaska, but are included to ease comparison between the Wilderness Act and ANILCA. This document does not interpret various provisions of the Wilderness Act and ANILCA. Interpretations of these legislative provisions may be found in agency regulations, court cases, solicitor or general counsel opinions, and agency policies. This supplement also does not replace existing agency-specific policies and procedures (See Page 20 for a list of relevant policies, procedures, and regulations).

This document is primarily used to help understand and complete Steps 1(A) and 2 of the interagency MRDG. Specific provisions of ANILCA allow uses and activities otherwise prohibited under the Wilderness Act (Step 1(A) of the MRDG), but this may not preclude the need to determine the minimum tool for that activity (Step 2 of the MRDG).

This document describes the provisions affecting both public and administrative uses in the Wilderness Act and ANILCA. The public use provisions are included because they may influence the minimum requirements analysis for administrative activities in wilderness.

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<sup>1</sup> Although not designated wilderness, the Nellie Juan-College Fiord Wilderness Study Area is included in this guide (ANILCA Section 704)

## **2.0 WILDERNESS ACT BACKGROUND**

### **2.1 ORIGIN OF THE MINIMUM REQUIREMENTS EXCEPTION**

The phrase “minimum requirements” comes from Section 4(c) of the Wilderness Act:

*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 (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.*

For the purposes of this supplement, “administration” is an activity or action conducted by the federal land management agency or an agency-authorized entity, not by the public. Agency-authorized entities may include other federal agencies, state agencies, contractors, cooperating agencies, cooperating associations, researchers, agency support groups, or volunteers.

Administrative activities that may be subject to a minimum requirements analysis include, but are not limited to: special use and right-of-way permits, resource inventory and monitoring, scientific research, habitat manipulation, fish and wildlife population control, law enforcement patrols, construction and maintenance of trails, signs, and cabins, and discretionary fire management activities.

Each federal land management agency may use a minimum requirements analysis for additional activities or may include additional activities in the definition of administrative activity. (See specific agency links.)

### **2.2 WHAT IS THE PURPOSE OF WILDERNESS?**

Pertinent sections of the Wilderness Act that express purpose and Congressional intent in establishing “wilderness” include:

Section 2(a):

*In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the*

*Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. ...*

## **2.3 WHAT IS WILDERNESS?**

Section 2(c):

*A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.*

## **2.4 HOW IS WILDERNESS ADMINISTERED?**

Sections of the Wilderness Act establish the administration and uses of designated wilderness areas, including:

Section 2(a):

*. . . For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as "wilderness areas", and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no Federal lands shall be designated as "wilderness areas" except as provided for in this Act or by a subsequent Act.*

Section 4(a):

*The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and national wildlife refuge systems are established and administered...*

Section 4(b):

*Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.*

Designated wilderness areas in Alaska are managed under the provisions of the Wilderness Act, establishing legislation such as ANILCA, federal regulations, and agency policies.

### 3.0 ANILCA CONTEXT

ANILCA defined “conservation system units” to include areas designated as wilderness:

Section 102(4):

*The term “conservation system unit” means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.*

Congress established the conservation system units in ANILCA for the following purposes, among others:

Section 101(a):

*In order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the units described in the following titles are hereby established.*

Section 101(b):

*It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on freeflowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.*

The National Park Service, the Fish and Wildlife Service, and the Forest Service manage wilderness areas in Alaska. In addition, the Chugach National Forest contains one wilderness study area, the Nellie Juan-College Fiords Wilderness Study Area. The Chugach National Forest Revised Land and Resource Management Plan and Forest Service Manual Alaska R-10 supplement 2320.3 requires the Forest Service to manage the Nellie Juan-College Fiords Wilderness Study Area to maintain wilderness character until Congress acts on designation. The Bureau of Land Management does not have

designated wilderness areas in Alaska. (See Appendix A for a complete list of wilderness areas in Alaska.)

ANILCA addresses the administration of wilderness areas in Alaska in Sections 102(13) and 707:

Section 102(13):

*The terms “wilderness” and “National Wilderness Preservation System” have the same meaning as when used in the Wilderness Act (78 Stat. 890).*

Section 707:

*Except as otherwise expressly provided for in this Act wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 701 and 702 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.*

## **4.0 PROHIBITIONS AND EXCEPTIONS UNDER THE WILDERNESS ACT AND ANILCA**

### **4.1 WILDERNESS ACT PROHIBITIONS**

Section 4(c) of the Wilderness Act lists 10 prohibited uses or activities:

- Commercial enterprise
- Permanent roads
- Temporary roads
- Use of motorized equipment
- Landing of aircraft
- Structures
- Installations
- Use of motor vehicles
- Use of motorboats
- Use of other forms of mechanical transport

### **4.2 EXCEPTIONS TO THE WILDERNESS ACT PROHIBITIONS**

For analysis purposes, this supplement describes four types of exceptions to the Wilderness Act prohibitions in Alaska:

- Existing private rights
- Special provisions in the Wilderness Act
- Provisions found in ANILCA and other subsequent legislation
- The minimum requirements exception in Section 4(c) of the Wilderness Act:  
“ . . . *necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area) . . .*”

The following discussion about exceptions is intended as a general summary of the special provisions under the Wilderness Act and ANILCA and does not include all detailed analyses found in case law, solicitor or general counsel opinions, regulations, Memorandums of Understandings, and federal agency policies or plans.

#### **4.2.1 EXISTING PRIVATE RIGHTS**

The prohibitions in Section 4(c) of the Wilderness Act are subject to existing private rights.

## 4.2.2 SPECIAL PROVISIONS OF THE WILDERNESS ACT AND ANILCA

Note: The Wilderness Act and ANILCA exceptions are addressed together in related topics below for ease of comparison. They provide statutory authority for certain activities and are important in completing a minimum requirements analysis.

### 4.2.2.1 Commercial Enterprise

The Wilderness Act Section 4(c) prohibits commercial enterprise in wilderness areas, unless they are subject to an existing right or allowed by a special provision in the Act or in subsequent legislation.

#### 4.2.2.1.1 Commercial Services.<sup>2</sup>

Section 4(d)(6) of the Wilderness Act provides for certain commercial services in wilderness, such as outfitters and guides:

*Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.*

ANILCA also contains provisions in Section 1307 affecting visitor services in designated wilderness:

*(a) CONTINUATION OF EXISTING VISITOR SERVICES. Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged in adequately providing any type of visitor service within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded .*

*(c) DEFINITION. As used in this section, the term “visitor service” means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides excepting the guiding of sport hunting and fishing. Nothing in this Act shall limit or affect the authority of the Federal Government or the State of Alaska to license and regulate transportation services.*

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<sup>2</sup> Each agency administers commercial services differently, subject to applicable statutes, regulations, and policy.



#### **4.2.2.1.2 Commercial Fishing**

Section 304(d) of ANILCA authorizes continued exercise of valid commercial fishing rights or privileges and related use of national wildlife refuges for facilities and equipment necessarily related to the exercise of those activities. Section 205 of ANILCA contains a similar authorization for certain national park units, although none of these areas are currently designated wilderness. Section 1316 of ANILCA addresses the use of temporary facilities and equipment where the taking of fish and wildlife is allowed. Commercial fishing is prohibited within certain waters of Glacier Bay National Park. For details on each of these provisions, see discussions on Commercial Fishing Facilities and Temporary Facilities under the Structures and Installations section.

#### **4.2.2.1.3 Trapping and Subsistence**

Trapping and subsistence trade and barter of fish and wildlife are allowed as a commercial enterprise in some circumstances. Section 803 of ANILCA defines subsistence uses as follows:

*. . . the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.*

Additional information on trapping and subsistence uses can be found in agency regulations and policies.

#### **4.2.2.2 Grazing**

The following ANILCA sections apply to grazing: Section 302(7)(C) allows reindeer grazing, facilities, and equipment on the Selawik National Wildlife Refuge for grazing operations under permit on January 1, 1976. Section 303(7)(C) allows reindeer grazing on the Yukon Delta National Wildlife Refuge where compatible with refuge purposes. Section 201(2) allows reindeer grazing, including necessary facilities and equipment, in Bering Land Bridge National Preserve, although no areas of the Preserve are currently designated as wilderness.

#### **4.2.2.3 Transportation and Utility Systems**

Title XI of ANILCA addresses transportation and utility systems. Section 1101(a) states:

*Alaska's transportation and utility network is largely undeveloped and the future needs for transportation and utility systems in Alaska would best be identified and provided for through an orderly, continuous decisionmaking process involving the State and Federal Governments and the public;*

Title XI of ANILCA establishes a process for authorizing transportation and utility systems in and across conservation system units, including the construction, operation, and maintenance of an approved system. Section 1106(b) of ANILCA provides a process for approval of a transportation or utility system, such as canals, pipelines, electric transmission lines, roads, railroads, docks, or airports, and telecommunications facilities in designated wilderness. In order to approve a transportation or utility system in wilderness, ANILCA states that, after preparation of an environmental impact statement and consideration of comments from the public and federal agencies, the appropriate federal agency tentatively approves or disapproves the application and forwards to the President for approval or disapproval. If the President approves the transportation or utility system, the recommendation is forwarded to Congress for approval or disapproval, followed by an authorization from the appropriate federal agency if Congress approves the transportation or utility system.

#### **4.2.2.3.1 Water Resources**

Section 4(d)(4) of the Wilderness Act provides for Presidential authority to authorize certain water resource activities in national forest wilderness:

*. . . the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial . . .*

#### **4.2.2.4 Mineral Assessments**

Provisions in both the Wilderness Act and ANILCA similarly allow only public land administrators to conduct mineral assessments in wilderness areas. Section 4(d)(2) of the Wilderness Act provides for certain mineral activities in national forest wilderness, as follows:

*Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the United States Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.*

Section 1010 of ANILCA provides for mineral assessments on all public lands in Alaska, including in wilderness areas, as follows:

*The Secretary shall, to the full extent of his authority, assess the oil, gas, and other mineral potential on all public lands in the State of Alaska in order to expand the data base with respect to the mineral potential of such lands. The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on public lands other than such lands within the national park system, core and test drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act . . .*

#### **4.2.2.5 Access**

Section 4(d)(1) of the Wilderness Act provides that certain motorized uses may be permitted to continue in wilderness areas:

*Within wilderness areas designated by this Act, the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable.*

ANILCA addresses certain activities and access methods that are otherwise prohibited by the Wilderness Act, as follows:

##### **4.2.2.5.1 Valid Existing Rights**

Section 1109 of ANILCA addresses valid existing access rights:

*Nothing in this title shall be construed to adversely affect any valid existing right of access.*

##### **4.2.2.5.2 Access for Traditional Activities**

Section 1110(a) of ANILCA provides for access for traditional activities, and for travel to and from villages and homesites:

*(a) Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or*

*area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.*

#### **4.2.2.5.3 Subsistence Access**

Section 811 of ANILCA provides for access for subsistence activities, as follows:

*(a) The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.*

*(b) Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.*

Refer to agency regulations and policies for further guidance.

#### **4.2.2.5.4 Access to Inholdings**

Access to inholdings and other valid occupancies in Alaska are addressed by Section 1110(b) of ANILCA:

*(b) Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.*

#### **4.2.2.5.5 Temporary Access**

Section 1111 of ANILCA provides for certain temporary access through wilderness for survey, geophysical, exploratory, or other temporary uses on state or private land:

*(a) IN GENERAL.—Notwithstanding any other provision of this Act or other law, the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or*

*other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands.*

*(b) STIPULATIONS AND CONDITIONS.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.*

#### **4.2.2.5.6 Other Access**

Sections 1310 and 1315(b) of ANILCA contain access provisions for specific purposes (see Structures and Installations section below).

#### **4.2.2.6 Structures and Installations**

Section 1310 of ANILCA provides for access to, and operation, maintenance, and construction of certain new and existing facilities in wilderness:

*(a) EXISTING FACILITIES.— Within conservation system units established or expanded by this Act, reasonable access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to units of such systems, as appropriate. Reasonable access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provision of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation and maintenance within wilderness areas designated by this Act.*

*(b) NEW FACILITIES.— The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes, and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance, and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.*

Section 1315(b) of ANILCA addresses facilities and access for certain fishery purposes in national forest wilderness:

*AQUACULTURE.— In accordance with the goal of restoring and maintaining fish production in the State of Alaska to optimum sustained yield levels and in a manner which adequately assures protection, preservation, enhancement, and rehabilitation of the wilderness resource, the Secretary of Agriculture may permit fishery research, management, enhancement, and rehabilitation activities within national forest wilderness and national forest wilderness study areas designated by this Act. Subject to reasonable regulations, permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks may be permitted by the Secretary to achieve this objective. Any fish hatchery, fishpass or other aquaculture facility authorized for any such area shall be constructed, managed, and operated in a manner that minimizes adverse impacts on the wilderness character of the area. Developments for any such activities shall involve those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. Reasonable access solely for the purposes of this subsection, including temporary use of motorized equipment, shall be permitted in furtherance of research, management, rehabilitation and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.*

#### **4.2.2.6.1 Commercial Fishing Facilities**

Section 304(d) of ANILCA authorizes the use of Federal lands for certain structures and vehicles and other uses related to the exercise of commercial fishing rights or privileges within units of the National Wildlife Refuge System:

*The Secretary shall permit within units of the National Wildlife Refuge System designated, established, or enlarged by this Act, the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law and the use of Federal lands, subject to reasonable regulation, for campsites, cabins, motorized vehicles, and aircraft landings directly incident to the exercise of such rights or privileges: Provided, That nothing in this section shall require the Secretary to permit the exercise of rights or privileges or uses of the Federal lands directly incident to such exercise, which he determines, after conducting a public hearing in the affected locality, to be inconsistent with the purposes of a unit of the National Wildlife Refuge System as described in this section and to be a significant expansion of commercial fishing activities within such unit beyond the level of such activities during 1979.*

#### **4.2.2.6.2 Cabins**

While the Wilderness Act prohibits structures, ANILCA provides certain exceptions for construction, use, and occupancy of cabins.<sup>3</sup> In addition to Section 304(d) of ANILCA

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<sup>3</sup> See agency regulations and policies implementing the cabin provisions of ANILCA.

discussed above (4.2.2.6.1), Section 1303(a)(4) of ANILCA authorizes certain new cabins on National Park System land:

*The Secretary may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, construction and maintenance of new cabins or other structures if he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.*

On other units (non-NPS), Section 1303(b)(1) provides for construction, use, and occupancy of cabins:

*The construction of new cabins is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Secretary. Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the unit or area was established and that the use of the cabin is either directly related to the administration of the unit or area or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the unit or area where the permit applicant has no reasonable alternative site for constructing a cabin. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.*

Existing private use cabin leases and permits may be continued, renewed, or transferred pursuant to Section 1303(d) of ANILCA:

*(d) EXISTING CABIN LEASES OR PERMITS.— Nothing in this Act shall preclude the renewal or continuation of valid leases or permits in effect on the date of enactment of this Act for cabins, homesites, or similar structures on Federal lands. Unless the Secretary, or in the case of national forest lands, the Secretary of Agriculture, issues specific findings following notice and an opportunity for the leaseholder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat to or a significant impairment to the purposes for which a conservation system unit was established (in the case of a structure located within a conservation system unit) or the public domain or national forest (in case of a structure located outside conservation system units), he shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit, subject to such reasonable regulations as he may prescribe. Subject to the provisions of the original lease or permit, nothing in this Act or subsection shall necessarily preclude the appropriate Secretary from transferring such a lease or permit to another person at the election or death of the original permittee or leasee.*

Section 1315(c) of ANILCA allows the continuation of existing public use cabins and Section 1315(d) provides for the construction of a limited number of new public use cabins in designated wilderness if necessary for public health and safety:

*(c) EXISTING CABINS.—Previously existing public use cabins within wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.*

*(d) NEW CABINS.—Within wilderness areas designated by this Act, the Secretary or the Secretary of Agriculture as appropriate, is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape. The Secretary or the Secretary of Agriculture, as appropriate, shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter.*

#### **4.2.2.6.3 Temporary Facilities**

Section 1316 of ANILCA allows continuance of existing uses and future establishment and use of temporary facilities and equipment on public lands, including wilderness, where the taking of fish and wildlife is permitted:

*(a) On all public lands where the taking of fish and wildlife is permitted in accordance with the provisions of this Act or other applicable state and federal law the Secretary shall permit, subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used, and maintained in a manner consistent with the protection of the area in which they are located. All new facilities shall be constructed of materials which blend with, and are compatible with, the immediately surrounding landscape. Upon termination of such activities and uses (but not upon regular or seasonal cessation), such structures or facilities shall, upon written request, be removed from the area by the permittee.*

*(c) Notwithstanding the foregoing provisions, the Secretary may determine, after adequate notice, that the establishment and use of such new facilities or equipment would constitute a significant expansion of existing facilities or uses which would be detrimental to the purposes for which the affected conservation system unit was established, including the wilderness character of any wilderness area within such unit, and may thereupon deny such proposed use or establishment.*



#### **4.2.2.7 Control of Fire, Insects, and Diseases**

Section 4(d)(1) of the Wilderness Act provides for the control of fire, insects, and diseases in wilderness:

*. . . such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.*

#### **4.2.2.8 Motorized Equipment and Mechanical Transport**

Several provisions of the Wilderness Act and ANILCA address use of motorized equipment and mechanical transport for specific purposes. For example, Section 703(b) of ANILCA states:

*Existing mechanized portage equipment located at the head of Semour Canal on Admiralty Island may continue to be used.*

For additional provisions, see Structures and Installations, Water Resources, Control of Fire, Insects, and Diseases, Subsistence Access, and Access for Traditional Activities sections described above.

### **4.2.3 MINIMUM REQUIREMENTS FOR ADMINISTRATION**

The fourth type of exception (see 4.2) to the prohibitions in Section 4(c) of the Wilderness Act is the minimum requirements exception. Agencies responsible for administering wilderness may conduct or permit certain activities that are normally prohibited if the activities are “necessary to meet minimum requirements for the administration of the area for the purpose of [the Wilderness] Act.” A minimum requirements analysis must be conducted to make this determination. The minimum requirements exception does not apply to the prohibitions of commercial enterprise or permanent roads.

### **4.2.4 MINIMUM REQUIREMENTS ANALYSIS**

Agencies implement the minimum requirements analysis using two steps: 1) determine whether the proposed action is necessary for administration of the area as wilderness; if so, 2) identify the minimum activity (minimum tool).

The minimum requirements analysis is used for the following purposes:

- identify, evaluate, and select management actions
- document the decision
- facilitate communication among involved parties
- promote wilderness stewardship

Early communication is key to successful completion of a minimum requirements analysis. When an action is initially proposed in wilderness, during the project-planning phase, the project manager (whether biologist, trail manager, research scientist, etc.) and the local wilderness coordinator should jointly discuss the project in sufficient detail to determine the information needed. The level of detail and effort necessary for a minimum requirements analysis process depends on the scope and complexity of the issue or problem being considered.

The four federal land management agencies developed a “Minimum Requirements Decision Guide” (MRDG) to establish a standardized national process to document, identify, analyze, and select management actions that are necessary to meet the minimum requirements for the administration of wilderness. The MRDG format is not required by law or agency policy; however, use of a minimum requirements decision-making process will help to ensure consistency in appropriate application of the minimum requirements exception in the Wilderness Act.

#### **4.2.4.1 Selected Regulations and Policies**

Provisions of ANILCA may influence the determination of a minimum requirements analysis for administrative actions in wilderness. The three federal agencies that manage wilderness in Alaska have different regulations and policies. Alaska-specific regulations and policies include:

- NPS Management Policies, Chapter 6, Wilderness Preservation and Management.
- [Forest Service Manual Alaska Region Chapter 2320 Wilderness Management](#)
- FWS Refuge Manual (6 RM 8) and Fish and Wildlife Service Manual
- [43 CFR Part 36 regulations](#) (all Interior agencies)
- [36 CFR Part 13 regulations](#) (National Park Service)
- [50 CFR Part 36 regulations](#) (Fish and Wildlife Service)
- Master Memorandums of Understanding and other interagency agreements

The interagency MRDG, including Overview, Instructions, and Worksheets, is maintained by the Arthur Carhart National Wilderness Training Center in Missoula, Montana. The website is: <http://www.wilderness.net/index.cfm?fuse=MRDG>

## **5.0 WILDERNESS AREAS IN ALASKA**

### **5.1 NATIONAL PARK SERVICE**

#### **Kobuk Valley National Park**

Kobuk Valley Wilderness

#### **Noatak National Preserve**

Noatak Wilderness

#### **Gates of the Arctic National Park and Preserve**

Gates of the Arctic Wilderness

#### **Denali National Park and Preserve**

Denali Wilderness

#### **Lake Clark National Park and Preserve**

Lake Clark Wilderness

#### **Wrangell-Saint Elias National Park and Preserve**

Wrangell-St. Elias Wilderness

#### **Glacier Bay National Park and Preserve**

Glacier Bay Wilderness

#### **Katmai National Park and Preserve**

Katmai Wilderness

### **5.2 FISH AND WILDLIFE SERVICE**

#### **Alaska Maritime National Wildlife Refuge**

Aleutian Islands Wilderness

Bering Sea Wilderness

Bogoslof Wilderness

Chamisso Wilderness

Forrester Island Wilderness

Hazy Islands Wilderness

Saint Lazaria Wilderness

Semidi Wilderness

Simeonof Wilderness

Tuxedni Wilderness

Unimak Wilderness

#### **Arctic National Wildlife Refuge**

Mollie Beattie Wilderness

#### **Becharof National Wildlife Refuge**

Becharof Wilderness

**Innoko National Wildlife Refuge**

Innoko Wilderness

**Izembek National Wildlife Refuge**

Izembek Wilderness

**Kenai National Wildlife Refuge**

Kenai Wilderness

**Koyukuk National Wildlife Refuge**

Koyukuk Wilderness

**Selawik National Wildlife Refuge**

Selawik Wilderness

**Togiak National Wildlife Refuge**

Togiak Wilderness

**Yukon Delta National Wildlife Refuge**

Andreafsky Wilderness

Nunivak Wilderness

**5.3 FOREST SERVICE**

**Tongass National Forest**

Chuck River Wilderness

Coronation Island Wilderness

Endicott River Wilderness

Karta River Wilderness

Kootznoowoo Wilderness

Kuiu Wilderness

Maurille Islands Wilderness

Misty Fjords National Monument

Wilderness

Petersburg Creek-Duncan Salt Chuck

Wilderness

Pleasant/Lemusurier/Inian Islands  
Wilderness

Russell Fjord Wilderness

South Baranof Wilderness

South Etolin Wilderness

South Prince of Wales Wilderness

Stikine-LeConte Wilderness

Tebenkof Bay Wilderness

Tracy Arm-Fords Terror Wilderness

Warren Island Wilderness

West Chichagof-Yakobi Wilderness

**Chugach National Forest**

Nellie Juan-College Fiord Wilderness Study Area<sup>4</sup>

<sup>4</sup> The Chugach National Forest Revised Land and Resource Management Plan and Forest Service Manual Alaska R-10 supplement 2320.3 requires the Forest Service to manage the Nellie Juan-College Fiords Wilderness Study Area to maintain wilderness character until Congress acts on designation.

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