

**Long-Term Boat and Personal Property Storage at Butterfly Lake  
Nancy Lake State Recreation Area**

**Director's Determination  
April 2014**

**Proposed Action**

The Division of Parks & Outdoor Recreation (DPOR) proposes to issue special park use permits for long-term storage of boats and related property at an identified site on the shore of Butterfly Lake within the Nancy Lake State Recreation Area.

On January 8, 2014, the Alaska Superior Court, in Case Number 3AN-11-5670 CI, issued a final judgment and injunction which ruled that all outstanding permits issued for the storage of boats and other personal property at the north end of Butterfly Lake were to be revoked effective April 30, 2014. The final judgment and injunction provided further direction to the State by specifying that "No permits for storage of boats or other personal property at the north end of Butterfly Lake shall be issued hereafter unless consistent with applicable law at the time of issuance." Accordingly, DPOR previously provided notice to the public that boats and personal property needed to be removed by April 30, 2014, pending consideration of the requirements of the injunction. It is the DPOR's intent with this decision to comply with the injunction by providing the information necessary to determine that permits issued for the long-term storage of boats and related property at the north end of Butterfly Lake can be authorized under existing law. DPOR intends to make permits available to the general public under the regulations and conditions set out in this determination, without any requirement of private property ownership at or near Butterfly, Delyndia or Skeetna Lake, and with the permits clearly revocable at the will of the State.

The effective date of this decision is April 30, 2014.

It is possible this decision will be challenged and if so, DPOR will provide further notice to the public.

**Authority**

11 AAC 12.220(b) (Unattended camps and equipment)  
11AAC 18.010 (Special park use permits)  
11 AAC 18.025 (Procedure)

**Management Plan**

Nancy Lake State Recreation Area Master Plan (October, 1983)  
Draft Nancy Lake State Recreation Area Plan (Public Review Draft May, 2013)

**Location**

Uplands located on north shore of Butterfly Lake

**Legal description**

SW ¼ Section 31 T18N R4W Seward Meridian

**Borough**

Matanuska-Susitna Borough

**Land use classification**

Natural zone (Nancy Lake State Recreation Area Master Plan, October, 1983)

**Previous Determinations**

This determination supersedes the June 8, 2011, Director's Determination regarding the *Long-Term Raft-barge Moorage on Park Waters*, which was specific to Butterfly Lake.

**Background:**

Park regulation 11 AAC 12.220(b) prohibits a person from leaving camping equipment or a vehicle in an undeveloped area of a state park for more than 72 hours unless they are engaged in recreational activities on a daily basis, or unless they have made prior arrangements with a state park officer. Furthermore, 11 AAC 18.010(a)(4) prohibits the placement of personal property in a state park without a permit.

DPOR has previously provided permits to individuals who own land on Butterfly Lake, Delyndia Lake, and Skeetna Lake to store their boats and personal property on park land at the north end of Butterfly Lake. Most of the private parcels on these three lakes have seasonal residences which can only be accessed by floatplane, trail or by boat during snow-free periods. Some people that use boats to access their property have moored or stored their boat long-term on park managed uplands or moored boats long-term at the north shoreline of Butterfly Lake. These boats include small and large skiffs, canoes, kayaks, and rafts or barges. In addition to boats, some property owners store private property associated with boat access, such as life vests, oars, fuel containers, batteries and trolling motors, on uplands adjacent to Butterfly Lake.

Many of the boats stored at the north end of Butterfly Lake are small enough to be pulled on shore and tipped over, typically small skiffs, canoes or kayaks. Minor compaction of soil and some loss of vegetation are occurring at the area where storage of smaller boats and personal property has been allowed to occur. These minor impacts are similar to those found at trails and lakeside landings throughout the Lynx Lake Canoe Loop Trail which connects fourteen lakes within the park via portages.

Several larger boats and motorized rafts that are primarily used for transporting large loads and off-road vehicles (ORVs) have been moored along the lake's shoreline for many years. These boats are too large and heavy to bring ashore to store. Some property owners that own a raft have developed access paths directly to their raft to facilitate loading ORVs and other gear for transport to their property. This has resulted in multiple ORV paths being developed through the riparian zone and has resulted in much more pronounced soil compaction and displacement, along with loss of vegetation. To prohibit an expansion of these types of impacts to the riparian habitat, DPOR instituted a moratorium in 2009 that limited the number of authorized rafts and barges to eight. The injunction issued in Superior Court Case Number 3AN-11-5670 CI required all ORV permits to be revoked, and not re-issued unless consistent with applicable law at the time of issuance. As stated in a letter to interested parties dated April 1, 2014, DPOR will not be issuing permits for summertime motorized use of the Butterfly Lake Trail until further notice, pending trail upgrades and consideration of whether permits may be issued consistent with the injunction.

Access to the north end of Butterfly Lake is via the two-mile long Butterfly Lake Trail that originates on private property belonging to the Anchorage Church of Christ. The church has recorded a public easement that allows the public to access the beginning of the trail and has previously allowed property owners in the area to use and park vehicles on their property upon request. Access to the church property is via the ~six mile long Lynx Lake Road, located near Milepost 63.8 on the George Parks Highway. During most of the summer months, the road is passable by highway vehicles to the church property.

Not all private properties have residences on them, and several larger parcels along the lake may be subdivided in the future. This recognizes the previous determination's requirement to review and/or revise current management practices as a result of the public process that has occurred with the ongoing revision of the Nancy Lake State Recreation Area Management Plan.

### **Procedure**

Pursuant to 11 AAC 18.025(c), the Director may, upon proper application, issue a permit for activities described in 11 AAC 18.010(a)(4) if he or she determines that:

(1) Park facilities and natural and cultural resources will not be adversely affected;

Discussion: The area where DPOR has and proposes to continue authorizing boat storage on Butterfly Lake is located at the terminus of the Butterfly Lake Trail and is a lakeside landing area approximately 25 feet long with a rocky cobble base. The storage of small boats on shore has had minor impacts to soil and vegetation. The loading and off-loading of ORVs onto rafts south of the traditional landing has resulted in accelerated soil and

vegetation impacts and has increased the footprint of activity within and adjacent to the riparian zone. There are no other park facilities or known cultural or historical sites at this location.

(2) The state park is protected from pollution;

Discussion: Allowing storage of boats and personal property could result in pollution to the park if fuel is not adequately contained and personal property not secured to avoid disturbance by wildlife or from weather.

(3) Public use values of the state park will be maintained and protected; and

Discussion: Butterfly Lake is part of the park's developed canoe trail system that connects the Lynx Lake Canoe Trail to the Little Susitna River via overland portages. The Butterfly Lake portage is not located in the same place as the boat storage area. There is minimal use of the site by the public except for boat launching and storage of boats and personal property.

(4) The public safety, health, and welfare will not be adversely affected.

Discussion: The boat launch and storage site is not an area of the park that receives heavy use by the general public and there are no known safety hazards at the site.

### **Determination**

It is determined that the permitting of small boat and related property storage at the north end of Butterfly Lake is consistent with the criteria in 11 AAC 18.025 with the following terms applied to such permits:

- 1 Permit Decal Required: All boats authorized under this permit shall display a boat storage registration decal issued by DPOR. The decal must be affixed near or adjacent to the US Coast Guard AK Boat Registration number. For boats not requiring AK registration, the decal must be permanently attached to the forward right bow just below the gunnel or deck of the vessel and be plainly visible from the exterior of the boat.
- 2 Unattended Boat Fuel Storage: All fuel containers shall be metal, approved for marine use with a maximum capacity of FIVE gallons per permit and shall be clearly marked with the owners name and boat storage permit decal number (not the US Coast Guard AK Boat Registration number).

When unattended, fuel hoses may not be left attached between the container and the engine where wildlife or vandalism could damage and cause leakage. Fuel

containers are not allowed to be stored on open decks of boats unless disconnected and secured in a leak-proof secondary metal box anchored to the deck. Otherwise, all fuel containers must be removed from a boat moored adjacent to DPOR managed uplands and must be contained in a secondary enclosure such as a hard-sided tool box that is resistant to damage from wildlife or vandalism. This includes hoses, tubes, fuel filters or any other fuel-containing apparatus. Fuel containers may also be stored under an overturned boat at least 20 feet from the ordinary high water mark of the shoreline or as designated by a park official.

- 3 Personal Equipment Limitation: Each boat permit allows for one metal storage box (see below), one fuel container, oars, paddles, engine, battery (for electric trolling motors) and personal flotation devices. Small boats may also store this equipment completely under the overturned boat.
- 4 Storage Lockers, Barrels, Boxes, etc.: Each boat may have one metal box/locker with a volume no greater than 16 cubic feet that can be used to secure the above personal equipment and placed under the boat. Lockers must be kept in good order and only colored as to blend with surrounding natural colors. Oars or paddles too long to fit may be placed under an overturned boat. Lockers must display the owners name and permit decal number in an obvious location. All existing storage barrels or larger storage lockers on site that exceeds these specifications must be replaced by June 14, 2015. No lockers may be attached to trees or vegetation and should be preferably located adjacent to the owner's stored boat.
- 5 Preservatives: The wooden portions of any boats shall not be treated with any preservative containing pentachlorophenol or creosote. Wood preservatives must be pre-applied using pressure treatment rather than painted on or allowed to soak into the wood.
- 6 Flotation Materials: Raft flotation shall be of materials which will not become waterlogged or sink when punctured. Closed cell (extruded) expanded polystyrene or equivalent material of good quality and manufactured for marine use is recommended. Lesser quality foam bead flotation may be authorized if it is encased in a protective coating to prevent deterioration with resultant loss of beads. Existing foam bead flotation will be allowed unless it is breaking up into the water, at which time it no longer complies with the stipulations of this permit and must be removed. No unexposed foam flotation will be authorized in any future raft upgrades.
- 7 Designated Storage Locations: Boats stored on park uplands may only be placed in designated locations. DPOR will install signage to define the area. Impacted

areas outside the designated storage area will be fenced off to allow natural vegetation regeneration.

- 8 Defined Loading/Unloading and Launch Locations: Boats may only be loaded, unloaded or launched from the signed and designated landing. Boat moorage against park uplands at the Butterfly Lake Trail terminus will be allowed to continue but may not impede transport of stored boats to water, nor may they constitute an impediment to navigation on the lake.

The shoreline and riparian zone to the south of the main shore landing will be closed to overland passage. Temporary fencing will be placed to prevent access through this zone to allow habitat restoration to occur. No lines or tethers may attach boats to upland vegetation. DPOR will install an anchored cable along the shoreline to be used as a tie-off. Other permanent anchor moorings will not be authorized. Boat loading or off-loading may only be performed at the designated launch location.

This restriction does not apply to boats moored long-term adjacent to upland private property.

- 9 Boat Size Limitation: The maximum length of a stored, moored or anchored boat will not exceed 16 feet in length except for canoes which cannot exceed 20 feet. Existing rafts may not be altered or rebuilt larger than what existed on June 5, 2009.
- 10 Damage Liability: The permittee shall protect the land and waters, property, and resources of the State of Alaska from damage in the area covered by and used in connection with this permit. The permittee shall be liable to the state for any damage resulting from negligence or from the violation of the terms of this permit or any law or regulation applicable to the use of state parks or other state lands by the permittee or by the permittee's agents.
- 11 Security Recommendation: Permittees are encouraged to adequately secure all valuables covered under this permit. The State of Alaska assumes no responsibility in the loss, damage or theft of personal property stored on park lands or waters.
- 12 Public Access: Stored boats shall not interfere with free public use of park trails, waters, or public access easements in the area.
- 13 Revocation: Permittee understands that this permit is revocable at the will of the State of Alaska. Furthermore, failure to comply with permit stipulations may also

incur revocation, citations, and possible impoundment of personal property.

- 14 Permit Availability: Storage permits under this determination are available to anyone that applies and can comply with the stipulations.
- 15 Fees: Each permit has a \$25.00 non-refundable permit fee per boat per year. Permits at this time are available for up to two years.
- 16 Permit Term: A year is defined as the 12-month period annually between June 16 and June 15.
- 17 Multiple Boats: Each boat requires a separate permit. No person may have more than two permits per term.
- 18 Assignment: Permits may not be assigned and permittee shall not sublet or enter into third party agreements involving the privileges authorized by this permit.
- 19 Grace Period: Starting in the spring of 2014, all boats requiring this permit will have until June 15, 2014 to acquire a permit and affix their decal to their boat as proof of authorization. Special exceptions may be made on a case by case basis, such as military absences or other unusual circumstances. These exceptions must be made in writing or email to the Alaska State Parks address on the permit application and prior to the due date. Boats not permitted by this date are subject to impoundment or possible citation.

The 2009 *Butterfly Lake Raft-Barge Moratorium* letter limiting the number of rafts or barge-type boats to eight will remain in effect until the revised Nancy Lake State Recreation Area management plan is adopted. Additionally, future decisions regarding boat and personal property storage at the north end of Butterfly Lake will be made consistent with the final revised management plan.

DPOR will monitor the use of the site and may implement other requirements as necessary to comply with the criteria in 11 AAC 18.025(c).

  
for Ben Ellis, Director

April 1, 2014  
Date

## **Appeals**

All appeals must be in accordance with 11 AAC 02. To be eligible to appeal a person must be affected by this decision. Any appeal must be received within 20 calendar days after the date of “issuance” of this decision, as defined in 11 AAC 02(c) and (d). If no appeal is filed within the 20 days of “issuance” this decision goes into effect as a final order and decision 31 days after “issuance”. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

Appeals should be directed to:

Joe Balash, Commissioner  
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Anchorage, AK 99501  
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