

## **APPENDIX B: ANILCA SECTION 810(A) SUMMARY OF EVALUATIONS AND FINDINGS**

### **I. Introduction**

This evaluation and finding was prepared to comply with Title VIII, Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA). It evaluates the potential restrictions to subsistence activities that could result from implementation of the South Denali Implementation Plan. The *Draft South Denali Implementation Plan and Environmental Impact Statement* describes a range of alternatives for consideration.

### **II. The Evaluation Process**

Section 810(a) of ANILCA states:

"In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands . . . the head of the Federal agency . . . over such lands . . . shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be affected until the head of such Federal agency:

1. gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to Section 805;
2. gives notice of, and holds, a hearing in the vicinity of the area involved; and
3. determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity would involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps would be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions."

ANILCA created new units and additions to existing units of the national park system in Alaska. Denali National Park and Preserve additions were created by ANILCA Section 202(3)(a) for the purposes of:

"The park additions and preserve shall be managed for the following purposes, among others: To protect and interpret the entire mountain massif, and additional scenic mountain peaks and formations; and to protect habitat for, and populations of fish and wildlife, including but not limited to, brown/grizzly bears, moose, caribou, Dall sheep, wolves, swans and other waterfowl; and to provide continued opportunities including

Petersville Road with the intent of protecting scenic, wildlife, mineral, recreation, and other resource values.

### **Susitna Forest Guidelines**

- State lands along the Petersville Road are co-designated Forestry and therefore this 1991 plan applies to them.

### **Memorandum of Understanding (MOU)**

- The borough and the state entered into an MOU that addressed lands along the Parks Highway and the Petersville Road in 1979 and amended the MOU in 1993.
- The lands affected are discontinuous and located along the Parks Highway and south of the Petersville Road junction and along the Petersville Road as far west as the Forks Roadhouse.
- The purpose of the MOU was to create a scenic buffer along these roadways.
- Under the MOU the borough relinquished lands back to the state that were located within 150 feet of the outside boundary of the existing road rights-of-way.
- Driveways across the scenic buffer are to be located no closer than 500' apart.
- Utility lines may be located only within the outer 25 feet of the 150 buffer on either side of the road ROW.
- Clearing of vegetation will be kept to a minimum.
- Complimentary uses such as bike paths, footpaths, and trails are allowed in the scenic buffer.

### **Mineral Leasehold Location Order**

- In 1997 the Department of Natural Resources adopted Leasehold Location Order #19. The area it applies to is within  $\frac{1}{4}$  mile of the centerline of the Petersville Road above the Forks Roadhouse north to the Peters Creek Bridge and land in the vicinity of Cottonwood Creek to the boundary of Denali State Park.
- The purpose of the order is to prevent potential use conflicts with preconstruction and construction activities
- Under the order, locatable minerals may only be acquired under the leasehold location system and may not be acquired by locating a mining claim.
- After the final location of the road alignment, the order will be vacated for any lands not inside the road right-of-way.
- Valid existing mineral locations and existing mineral closing orders are not affected.

### **Susitna Basin Recreation Rivers (Kroto and Moose creeks)**

- These two rivers were legislatively designated in 1988 and a management plan for them was adopted in 1991.
- The corridors are approximately one-mile wide. Adjacent to the Petersville Road Kroto Creek is primarily in state ownership, Moose Creek is primarily in private and borough ownership.
- State lands within the corridors cannot be sold or leased for lodges. All lands within these two corridors are closed to new mineral entry and have no existing mining claims.

- The management plan includes protection measures for habitat, recreation, and water quality.

### **Petersville Recreational Mining Area**

- Two areas along the road were established by legislature in 1997.
- The north area is in state ownership and signs and boundaries have been posted; the south area is state selected and is still in BLM ownership.
- Both blocks are closed to new mineral entry and no mining claims exist within these areas. The public can now recreationally mine in the north area without fear of inadvertently jumping existing claim.
- The north area has been designated “Special Use Lands” in order to limit suction dredges to 4 inches or less. This designation will take effect in the south area when it is conveyed to the state.
- A management plan for these areas will be developed when the Susitna Area Plan is updated for the Petersville Road Area.

### **Denali State Park Master Plan**

- The park was legislatively designated in 1970 and expanded in 1976.
- A management plan for the area was completed in 1989. It represents a major update and rewrite of the park’s first plan, completed in 1985.
- The plan reviews legislation establishing the park, provides a park mission statement, inventories the park’s natural resources, discusses recreation and tourism trends and patterns, and makes recommendations for the park’s management, protection, use, and development.
- The plan makes recommendations for recreational and interpretive facilities. The proposals are designed to rectify management problems, correct for deficiencies in the present number and types of facilities, and to provide opportunities for a variety of park users and visitors, including Alaskans and non-residents.
- Most of the recommendations call for traditional recreational facilities such as campgrounds, trails, backcountry campsites, and river access points. Others, particularly the South Denali Visitor Center Complex, are oriented toward natural history interpretation. Recommendations are consistent with the mission statement and other goals and objectives of the park.

### **Proposed Petersville Multiple Use Area**

- In 1985 the Susitna Area Plan proposed a legislative designation along the Petersville Road. The proposed designation includes Petersville Road subunit 1a (lands along the road between the Forks Roadhouse and Petersville) and Sunflower Basin subunit 7b (south-facing slopes of the Peters Hills west of Petersville). The legislature has not acted on this proposal.
- The management intent for the proposed legislative designation focuses on recreation, fish and wildlife habitat, and harvest.

### **Petersville Road Management Plan**

- The purpose of this plan was to provide the local community with the opportunity to address issues along the road corridor. This Plan was adopted by the Matanuska-Susitna Borough Assembly in August 1998.
- The plan identifies three corridors where important intrinsic values are identified and development is recommended for more intensive management. The widths of the corridors are as follows:
  - A) From the Parks Highway to Moose Creek the corridor includes the road right-of-way and a 300-foot scenic buffer.
  - B) From Moose Creek to Petersville the corridor includes the road right-of-way and those lands within ¼ mile on either side.
  - C) From Petersville to Tokositna (or Cache Creek, the plan text and maps differ) the corridor includes the right-of-way and those lands within one mile.
- The plan makes the following recommendations:
  - Traffic control measures along the first eight miles of road such as speed limits, flashing lights, and turning lanes on the Parks Highway.
  - Construction of a separated motorized trail along the entire length of the road and a separated non-motorized trail along the first five miles of roadway.
  - Construction of numerous waysides, pullouts, interpretive panels, kiosks, and parking lots.
  - Consideration of the Petersville Road as a National Scenic Byway.
  - Management of state and borough lands along the corridor to protect scenic qualities.

### **Road Right-of-way (ROW)**

- The road right-of-way along the Petersville Road from the Parks Highway to Cache Creek was conveyed to the state (100 feet on either side of centerline) by quitclaim deed under the 1959 Omnibus Act. Because of federal patents issued to homesteaders and others prior to statehood, the ROW may be narrower in some areas.
- DOTPF and DNR have a Memorandum Of Understanding that states all authorizations in major road rights-of-way will be issued by DOTPF (rather than DNR) statewide.

### **Matanuska-Susitna Borough Trails Plan**

- This plan was adopted in 1997 and is the basic planning and policy document guiding the borough's involvement in trails and development activities.
- The plan identifies the needs and desires of borough residents for primitive recreational trail development actions and guidelines.
- The plan does not focus on mechanisms for property owners to develop access nor identify access for miners and business access to natural resource development.
- The plan identifies and maps the principal trail corridors in the borough.
- Trails along the Petersville Road identified include: Collinsville Trail, Dutch Creek\Petersville Creek Trail, Tokositna River Route, Cache Creek Trail, Long Creek Route, Safari\Bunco Lakes Trail, Peters Hills Trail, Kroto Creek Trail, and Shulin Lake Trail.

reasonable access, for mountain climbing, mountaineering, and other wilderness recreational activities."

Subsistence is an allowed use in the ANILCA additions to Denali National Park and Preserve (Sec. 202(3)(a)). The potential for significant restriction must be evaluated for the proposed action's effect upon " . . . subsistence uses and needs, the availability of other lands for the purposes sought to be achieved and other alternatives which would reduce or eliminate the use" (Sec. 810(a)).

### **III. Proposed Action on Federal Lands**

The "Description of Alternatives" section of the *Draft South Denali Implementation Plan and Environmental Impact Statement* describes in detail the alternatives for consideration. Following is a brief summary of each. The primary focus of activity and actions under the proposed alternatives would take place on state and borough lands outside Denali National Park and Preserve. For all alternatives, no development would occur on Denali National Park lands.

#### **Alternative A: No Action**

No new actions would be implemented to support the 1997 Record of Decision for the South Side Denali Development Concept Plan except for those projects already approved and initiated. This alternative represents no change from current management direction and therefore represents the existing condition in the South Denali region. However, it does not ensure a similar future condition which could be affected by factors unrelated to this planning effort.

In this alternative there would be no approved plan for local, state and federal agencies to cooperatively improve and increase recreational opportunities and access to the South Denali region. Instead, new facilities and opportunities would be developed at the discretion of the lead agency and without interagency coordination. There would be no plan for a collaborative approach to address resource protection in Denali State Park and Denali National Park and Preserve. Furthermore, there would be no plan that would commit agencies to preserving quality of life in the rural South Denali communities. Issues of concern (trespass, vandalism, access, development, etc.) would be addressed separately by land management agencies within the constraints of jurisdictional boundaries and financial resources.

#### **Alternative B**

This alternative would provide a nature center in the Peters Hills, where opportunities to experience a subarctic tundra environment and view Mount McKinley and the Alaska Range would be provided to visitors of various abilities. The facility could accommodate up to 200 visitors at a time. The facility would be closed in winter. In this alternative Petersville Road would become an integral part of the visitor experience.

A 7-mile access road to the new facility would be constructed off Petersville Road near MP 28. A campground would be constructed at the Forks and a transportation facility would be constructed at the base of the access road. A trail system would be developed around the nature center.

#### Alternative C

This alternative would provide a visitor center off the Parks Highway in the southern Curry Ridge area, where opportunities to experience a forest and subarctic tundra environment and view Mount McKinley and the Alaska Range would be provided to visitors of various abilities. The facility could accommodate up to 400 visitors at a time. Portions of the facility could be open in winter.

A 3.5-mile access road to the new facility would be constructed off the Parks Highway. A transportation facility and campground would be constructed at the base of the access road. A trail system would be developed around the nature center. A campground would be constructed off Petersville Road near the Forks.

#### **IV. Affected Environment**

For this planning effort, South Denali is defined to include the local communities of Talkeetna, Trapper Creek, Y Area, and Petersville; the Petersville Road corridor; the western section of Denali State Park; the northern part of the Peters Hills and Dutch Hills; lands east of the Peters Hills to the Parks Highway; and the Parks Highway corridor from Rabideux Creek north through the state park.

Vegetative cover is typical of interior Alaska taiga. Lowland floodplains are dominated by dense, deciduous or coniferous forest, or by a mixed forest of balsam poplar and white spruce. Upland forests tend to be more open with mixed or continuous stands of black spruce, white spruce, or aspen. Upland forests give way to shrub communities at elevations above approximately 2,400 feet. Glacial rivers flowing from the Alaska Range create broad floodplains that are sparsely vegetated. Tall shrub communities of willow and alder grow on moist slopes and along drainages, and low shrub communities of dwarf birch and willow grow at higher elevations or on dry slopes. Alpine tundra, composed of dryas and dwarf willow shrub, mat and cushion species, or grass and sedge mixes, grows on slopes and ridges to about 6,000 feet.

The original Mount McKinley National Park was established in 1917 primarily as a refuge for large mammals. In 1980, ANILCA enlarged the Old Park to more than 6 million acres and re-designated the area as Denali National Park and Preserve. The protected subarctic ecosystem of Denali provides habitat for 30 species of mammals, at least 152 species of breeding birds, 16 species of fish (twelve resident species and four anadromous Pacific salmon species), and 1 amphibian. The American peregrine falcon (*Falco peregrinus anatum*), the subspecies that nests in the Denali region, was formerly listed as an endangered species under the Endangered Species Act but was delisted as of August 25, 1999 (64 FR 46542). No federally designated threatened or endangered

species are known to occur within Denali National Park and Preserve (see appendix E, consultation letter from the U.S. Fish and Wildlife Service).

Federal subsistence use in Denali National Park and within the planning area for this project does not occur because Denali National Park is not included in the planning area.

The South Denali planning area lies within Alaska Game Management Units 13E and 16A. General subsistence and commercial uses of fish and wildlife resources on State and private lands within these Units are authorized by State of Alaska hunting and fishing regulations. Under current state regulations, all Alaska residents qualify as subsistence users of fish and wildlife resources in areas where subsistence uses are authorized. Unit 16A is part of the Anchorage/Matanuska-Susitna/Kenai nonsubsistence area, which means that dependence on subsistence is not a principal part of the economy, culture, and way of life of the area. Consequently, State subsistence priority does not apply to unit 16A (see Title 5, Alaska Administrative Code 99.016).

The Alaska Department of Fish and Game, Division of Subsistence, documented subsistence use patterns of south side communities in studies conducted in the 1980s. These studies included mapping of areas used for seasonal resource harvesting. The community of Cantwell and residents living along the Denali Highway make extensive use of areas south of Cantwell to the Chulitna Pass/Hurricane Gulch/Byers Lake areas; and to the east along the Nenana River to the Susitna River where it branches into the west and east forks; and to the Maclaren River.

Another group of users consists of dispersed households in that portion of Unit 13E along the Alaska Railroad north of Talkeetna to the Hurricane-Broad Pass area on the George Parks Highway. Their resource harvesting occurs mostly in Unit 13E in the Chulitna and Susitna River drainages, along the George Parks Highway and Alaska Railroad corridors between Cantwell and Talkeetna, and along the western side of the Denali Highway.

Based on the Alaska Departments of Fish and Game studies in the 1980's, the rural Alaska annual wild food harvest is about 375 pounds per person per year. This exceeds the South Denali areas per capita annual harvest range of less than 100 pounds to slightly over 200 pounds. In contrast, harvest in areas off the road system can range as high as 500–800 pounds per person per year; while in urban areas a figure of 22 pounds per person per year is common. For households in the planning area that are closer to Anchorage, the majority of harvest tends to be fish.

## **V. Subsistence Uses and Needs Evaluation**

### Background Information

In 1980, Congress established a framework for protecting subsistence uses by both Native Alaskans and non-Native Alaskans in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). Title VIII authorizes the State of Alaska to regulate subsistence uses on federal public lands if several requirements are met.

The State of Alaska managed statewide subsistence harvests until late 1989 when the Alaska Supreme Court ruled that the rural residency preference required by federal law violated the Alaska Constitution. The State was unable to come into compliance and on July 1, 1990, the Federal Government assumed responsibility for the management of subsistence taking of wildlife on Federal public lands in Alaska. Further litigation and court decisions resulted in the October 1, 1999 assumption of Federal subsistence fisheries management in Alaskan rivers and lakes within and adjacent to Federal public lands.

The Federal Government, through the Federal Subsistence Board, manages subsistence use of fish and wildlife resources on federal lands, and the State of Alaska, through the Boards of Fisheries and Game, manages general subsistence and commercial use of fish and wildlife resources on nonfederal lands and National Preserve lands open to multiple use. The Federal and State management systems operate under individual legislation and enforces separate regulations.

Both state and federal laws define subsistence as the “customary and traditional” uses of wild resources for food, clothing, fuel, transportation, construction, art, crafts, sharing, and customary trade. Customary and traditional uses of fish and game are important to Alaskans from diverse cultural backgrounds.

State and federal laws differ in who qualifies for subsistence uses. Currently, all state residents qualify for subsistence fishing and hunting under state law. Under federal law, only local rural residents and communities with customary and traditional use of park lands qualify for subsistence fishing and hunting in National Parks.

No federal subsistence use is known to occur on Denali National Park lands within the Dutch and Peters Hills region, or the upper Tokositna drainage.

#### Potential Impacts to Subsistence Users

Increases in types and levels of recreation have the potential to interfere with subsistence activities. As popular places become crowded, it is expected that recreational use will disperse into more remote or infrequently-used places. Potential restrictions to subsistence may occur if visitors frequent areas used for subsistence. Visitors, especially those who travel via motorized means, may disturb wildlife and interfere with subsistence users who are hunting or scouting for subsistence resources.

#### Evaluation Criteria

To determine the potential impacts of the alternatives on existing subsistence activities, three evaluation criteria were analyzed relative to existing subsistence resources:

1. The potential to reduce important subsistence fish and wildlife populations by (a) reductions in number, (b) redistribution of subsistence resources, or (c) habitat losses;



2. What effect the action might have on subsistence fisher or hunter access;
3. The potential for the action to increase fisher or hunter competition for subsistence resources.

1. The potential to reduce populations

(a) Reduction in Numbers:

*Alternatives A, B, C*

Actions in these alternatives are not expected to reduce numbers of wildlife.

(b) Redistribution of Resources:

*Alternatives A, B, C*

Actions proposed in these alternatives would not redistribute subsistence resources.

(c) Habitat Loss:

*Alternatives A, B, C*

Actions in these alternatives would not result in habitat loss.

2. Restriction of Access

None of the alternatives would restrict access for subsistence.

3. Increase in Competition

None of the proposals in any of the alternatives are expected to result in increased competition for subsistence resources.

**VI. Availability of Other Lands and Alternatives to the Proposed Action**

No other lands can be substituted in the proposed action.

**VII. Alternatives Considered**

The *Draft South Denali Implementation Plan* includes a range of alternatives. The evaluation describes and analyzes the alternatives in this plan.

**VIII. Findings**

This analysis concludes that all proposed actions in all the alternatives would not result in a significant restriction of subsistence users, resources, or opportunities.