STATE OF ALASKA

SEAN PARNELL, Governor

CITIZENS' ADVISORY COMMISSION
ON FEDERAL AREAS

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May 27, 2010

Joel Hard, Superintendent
Lake Clark National Park and Preserve
240 W 5th Avenue
Anchorage, AK 99501

Dear Mr. Hard:

The Citizens' Advisory Commission on Federal Areas has reviewed the Environmental Assessment (EA) for a Right-of-Way Certificate of Access (RWCA) within the Silver Salmon Creek area in Lake Clark National Park and Preserve. We support the proposed action to issue a RWCA to the land privately owned by Dan and Nancy Farrer. We understand that the RWCA is necessary to provide stipulations for construction of two new trail segments and year-round motorized vehicle access to that land. Construction activities and use of motorized transportation to inholdings are subject to reasonable regulations under the Alaska National Interest Lands Conservation Act (ANILCA).

Section 1110(a) of ANILCA states:

> "…the Secretary shall [allow], on conservation system units, national recreation areas, and 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."

Section 1110(b) discusses access to inholdings and reads:

> "…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."

As stated above in ANILCA 1110(a) and reiterated in [the] *Interim User's Guide to Accessing Inholdings in National Park System Units in Alaska* (June 2007), a RWCA is not needed when accessing inholdings via motorboat, airplane, snowmachine and/or non-motorized means. Consistent with 1110(b) and the regulations at 43 CFR 36.10, the statutorily authorized right of access to inholdings may be subject to reasonable regulations to protect natural and other values of the conservation system unit.

In Wrangell-St. Elias National Park and Preserve and Denali National Park and Preserve, the RWCA has proven to be a useful tool for both recognizing that right of access and protecting park values through the application of reasonable stipulations. In this situation, the RWCA is used for authorization for construction of a new trail and to provide reasonable stipulations for using motorized transportation on that trail. This use of the RWCA is consistent with the explanations offered in the *Interim User's Guide* for when use of a RWCA is appropriate (pgs. 4, 5, 11, 12). The guide also explains that courts have ruled that authorization is necessary even when property ownership predates designation of the park unit (pg. 12).

The terms and conditions included under the preferred alternative appear to be reasonable and workable for the property owners. These conditions allow for some flexibility in construction and maintenance of the trail as well as how and when the trail is used. We commend NPS staff for what was clearly a cooperative process.

Thank you for the opportunity to comment on the proposed action. The Commission supports the preferred alternative which includes issuing a Right of Way Certificate of Access to the applicant.

Sincerely,

Stan Leaphart

Stan Leaphart
Executive Director