

STATE OF ALASKA

SEAN PARNELL, Governor

CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

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February 15, 2011

Sue Masica
Regional Director
National Park Service
240 West 5th Avenue
Anchorage, AK 99501

Dear Ms. Masica:

The Citizens' Advisory Commission on Federal Areas has reviewed the proposed changes to the 2011 Superintendent's Compendiums for the National Park units in Alaska. We appreciate the opportunity provided last fall to meet with Deputy Regional Director Vic Knox at our October meeting and later with superintendents and regional office staff to discuss possible changes to the compendiums. We offer the following comments for your consideration in finalizing these documents for 2011.

All Park Units

2.51(e) First Amendment Demonstrations

Allowing public demonstrations and the sale and distribution of printed materials by groups of 25 or fewer people without a permit is consistent with interim National Park System regulations issued October 19, 2010 (75 FR 64148). While the Commission did not comment on the interim regulations, they are generally considered to be consistent with the District of Columbia Circuit Court decision in *Boardley v. Department of the Interior*. However, we believe that the proper citation under the interim regulations should be §2.51(b)(1).

2.52(e) Designated areas for sale and distribution of printed matter for First Amendment purposes. The proper citation here for designating areas under the interim regulations would appear to be §2.51(c)(2).

**Denali National Park & Preserve
Gates of the Arctic National Park & Preserve**

13.40(e) Temporary closures or restrictions to the taking of fish and wildlife-

- From October 15 through April 30, artificial light may not be used to take a black bear at a den site except to retrieve a dead bear or dispatch a wounded bear as authorized by state law.
- From October 15 through April 30, a person may not take a cub bear or a female bear accompanied by a cub bear at a den site.

In our comments on the 2010 compendiums for these two units, the Commission deferred to the State of Alaska's comments on what were then proposed restrictions. Subsequently, during the above referenced meetings between the National Park Service and the Commission, we suggested that the restrictions are unnecessary. Any harvest of bears under these regulations would have very limited impacts on resources in the preserve units of the two park areas. Further, the State Board of Game adopted the regulations authorizing this customary and traditional practice in accordance with its authorities to establish hunting seasons and bag limits as well as means and methods of harvest. These restrictions should be removed from the compendium for each unit.

Wrangell – St. Elias National Park & Preserve

1.5(a)(2) Access to caves This proposed restriction is intended to prevent the spread of White-Nose Syndrome to bats within Wrangell- St. Elias. This highly infectious disease has caused major impacts to bat populations in areas of the lower 48 states and Canada. It is a threat to bat populations here in Alaska, although to our knowledge no cases have been documented. We commend the proactive approach in establishing protocols designed to prevent the spread of this disease to in state bat populations.

The proposed guidelines appear reasonable, with the possible exception of the 72 hour notice requirement. Park visitors should be advised of the requirements regarding gear and equipment as well as proper disinfecting practices. Additionally, consultation between park staff and cave visitors should probably occur. However, it is not clear why a 72 hour notice is necessary or why the contact must be either the Chief Range or the Chief of Resources. Other qualified park staff should be able to provide the necessary information and/or guidance.

As currently worded, this restriction applies to any person "entering a cave or any part or passage of any cave" but makes no mention of mine shafts or tunnels. Even though the park website strongly discourages visitors from entering any abandoned shaft or tunnel, it is likely that some visitors do so in spite of the danger. Given the objective of preventing the spread of White Nose Syndrome to the park, wording should be included in the compendium that extends the restriction to tunnels and shafts and also discourages visitors from entering them. We understand there is the risk of drawing attention to the presence of shafts and tunnels, but since they are already addressed on the park website, it is appropriate to include some reference here as well.

Since the causes of White-Nose Syndrome or how it spreads are not fully understood, we anticipate these proposed requirements will remain in place for the foreseeable future. As such,

it is appropriate to comply with the procedures for implementing closures and restrictions under 36 CFR §13.50.

Glacier Bay National Park & Preserve

2.10 (d) Food Storage: designated areas and methods

The requirement to keep all harvested fish from the Bartlett River within three feet of the angler or on their person does not seem practicable. Three feet is less than half the length of the average fishing rod. Rather than specifying a distance or requiring that the angler keep the harvested fish on their person, we recommend adopting language that would require only that the angler maintain control of any harvested fish. If a specific distance requirement is adopted, it should be similar to that adopted for other areas where angler-bear conflicts are a potential problem.

13.1116 Camping Permit Requirements in Glacier Bay National Park

This section states: *From May 1 through September 30, all campers, when entering for the first time during a calendar year, must complete a backcountry camper orientation at the Visitor Information Station or must be guided by a permitted concessionaire.*

In our comments on the proposed 2010 Compendium, the Commission asked for clarification on this section. The preamble to the final compendium explained that an orientation is required only when a camping permit is needed and that a permit is needed for camping up to ¼ nautical mile above the mean high tide in Glacier Bay proper, not the Outer Coast or alpine backcountry areas of the park. We appreciate the clarification; however, the wording of this section still implies that all campers in Glacier Bay National Park must complete a backcountry orientation, not just those who must obtain a permit. We suggest expanding this section to state when and where a permit is required for camping in Glacier Bay and that the orientation is required only for those campers who must have a permit. Given that the compendium, rather than the full set of park regulations, is the document most available to park visitors, it should be as specific as possible on these types of requirements.

Yukon – Charley Rivers National Preserve

13.40(e) Temporary closures or restrictions to the taking of fish and wildlife

From April 14, 2010 through May 31, 2010, the taking of wolves is prohibited except in accordance with Federal Subsistence Regulations located at 50 CFR Part 100.

We understand that inclusion of this closure in the 2011 compendium is an oversight and will be removed from the final version.

Temporary, Permanent and Seasonal Restrictions

We are compelled to make our *pro forma* objection to the practice of retaining permanent seasonal closures and other temporary restrictions in a park compendium for several years without complying with the procedural requirements found in 36 CFR §13.50. In responding to our more detailed comments on this issue in our comments on the proposed 2010 compendiums, the National Park Service explained its differing interpretation of the regulations and the proper

procedure to be followed. We remain unpersuaded and will continue to advocate for more timely adherence to the procedural requirements found in the regulations.

We again appreciate the opportunity to comment on the proposed 2011 Compendiums for the Alaskan Park Units. Please contact our office if there are questions or if we need to clarify anything.

Sincerely,

A handwritten signature in black ink, appearing to read "Stan Leaphart". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stan Leaphart
Executive Director

Cc: Paul Anderson, Denali National Park & Preserve
Greg Dudgeon, Gates of the Arctic National Park & Preserve
Meg Jensen, Wrangell – St. Elias National Park & Preserve
Susan Boudreau, Glacier Bay National Park & Preserve