

STATE OF ALASKA

CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

*SEAN PARNELL,
Governor*

*3700 AIRPORT WAY
FAIRBANKS, ALASKA 99709*

PHONE: (907) 374-3737

FAX: (907) 451-2751

April 6, 2012

Carol Goularte
District Ranger
Sitka Ranger District
204 Siginaka Way
Sitka, Alaska 99835

Dear Ms. Goularte:

The Citizens' Advisory Commission on Federal Areas reviewed the Environmental Assessment (EA) for the White Sulphur Springs Bathhouse. We offer the following comments for consideration in reaching a final decision on the future of the bathhouse.

As you know, the Commission supported the original proposal to relocate and replace the public use cabin and the bathhouse at White Sulphur Springs. In October, 2011, we appealed the decision to implement a revised proposal that would remove rather than replace the bathhouse. The Commission, along with other appellants, withdrew its appeal when the Forest Supervisor agreed to defer any decision involving removal of the bathhouse until spring or summer 2012.

We appreciate the decision to defer final action on the bathhouse until additional information could be gathered from the public on the historical, traditional and cultural use of the bathhouse, as well as its use as an emergency shelter. As we had anticipated, the response from the public, particularly from local users of the site, was strong and provided important information on current and historical use of the bathhouse for both recreational and public safety purposes.

The Commission supports the Forest Service's Proposed Action (Alternative 1) to replace the existing bathhouse, including the soaking pool and holding tank used to fill the pool. This action is consistent with and permissible under both the Alaska National Interest Lands Conservation Act (ANILCA) and the Wilderness Act of 1964. It is also consistent with Congressional intent with regard to management of wilderness areas in Alaska.

Historical Use

The EA outlines the public responses to the supplemental information requests. These responses clearly indicate a long history and pattern of use by residents of local communities, including Sitka and Pelican, commercial fishermen and other recreational users. Other records show use of the White Sulphur Springs area dates back almost 100 years. For much of that time there was some sort of shelter or structure at the site, with the current bathhouse dating from 1966.

This historic pattern of use is an important factor in this decision process. Section 4(b) of the Wilderness Act provides for protection of historical uses:

“Except as otherwise provided in this chapter, 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 chapter, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.” (Emphasis added.)

The West Chichagof-Yakobi Wilderness was designated by ANILCA Section 703(a)(14). Neither ANILCA nor its legislative history indicates specific purposes for designation of the area. It appears the primary reason for designation was to preclude future timber harvest or mineral development in the area. Congress determined the area met the criteria for designation despite having been used historically for a wide variety of commercial enterprises. There were also four Forest Service public use cabins located in the West Chichagof-Yakobi Wilderness area, including the White Sulphur Springs cabin and bathhouse, at the time it was designated. A 1984 document, the *West Chichagof-Yakobi Wilderness Environmental Assessment*, contains the following information:

“The entire coast of the Wilderness area was extensively used from the early 1900’s to the 1950’s. In addition to mining and mining related activities, there were a naval radio station, herring salteries, fish buying stations, stores, and residences. Probably the most widespread use was fox farms. Though none of these stayed in business for very long, they were prolific in the early part of this century. Many small and medium sized communities were located in the Wilderness; some 22 of them were recorded in Forest Service files. (EA, pages 22-23)

What is evident from our review of the ANILCA legislative history, including public testimony given to a subcommittee of the U.S. House of Representatives Committee on Interior and Insular Affairs, at a July 5, 1977 hearing in Sitka is that residents of Sitka and surrounding areas were concerned about the possible loss of the existing public use cabins in areas under consideration for wilderness designation.

Primarily in response to those and similar concerns expressed at hearings throughout the state, Congress included specific provisions in ANILCA Section 1315 to allow the continued

use of existing cabins and shelters as well as the construction of new public use cabins and shelters in designated wilderness if needed for the protection of public health and safety.

Congress also chose to include language to allow managing agencies more flexibility in their management of designated wilderness areas. Congress provided the following direction in *House Report No. 96-97* from the House Committee on Interior and Insular Affairs:

Wilderness Management

“In considering wilderness designation in Alaska, the Committee amendment adopts several special provisions relating to wilderness management in Alaska.

For over 10 years, the Committee on Interior and Insular Affairs has been deeply involved in considering legislation to establish wilderness areas on public lands throughout the country, As a result, some members of the Committee probably are more conversant with the Wilderness Act, the legislative intent of its drafters, and interpretation of that act than anyone else in the country. After a decade of experience, the Committee recognizes that differing interpretations of the Wilderness Act do create questions in certain situations. However, the Committee does not view the Wilderness Act as being as restrictive as many people believe it to be. Rather, the Committee is convinced that the restrictive management policies of the administering agencies- not founded in law- have led to a view by the public that virtually nothing can take place in a statutorily designated wilderness.

When considering past legislation designating wilderness, the Committee has consistently taken the opposite view; namely, that, in practice, the Wilderness Act is a flexible act and many activities, especially previously existing activities, are permitted in a wilderness area so long as such activities do not permanently alter the wilderness, interfere with the untrammelled condition of wilderness, or disrupt the wilderness character of the area. This view is based on the fact that each individual wilderness, like a fingerprint, is different from all others and management policies have to be developed on a specific area by area basis, rather than broad, general and unduly restrictive.

During the 95th Congress the Committee, concerned that the restrictive wilderness policies of the Forest Service were not in accord with the past directives of the Committee, held extensive hearings on the subject of ‘wilderness purity’ practices in the national forests in connection with the RARE II program. Enactment of Public Law 95-237 on February 24, 1978, not only confirmed the Committee’s past interpretations, but laid to rest once and for all the notion that administering agencies could interpret the Wilderness Act in an unduly restrictive way contrary to the intent of Congress.

Nonetheless, the Committee is concerned that Wilderness units may be managed in too restrictive a fashion in Alaska. In particular, the standard Wilderness constraints imposed on mechanical forms of access, cabin construction and maintenance, fisheries management activities, etc. could have severe impacts if used in Alaska. Accordingly the Committee amendment includes special Wilderness management provisions authorizing greater

flexibility. These provisions shall apply only to Wilderness units in Alaska.”
(*House Report No. 96-97*, pg. 226-227, emphasis added.)

Both the legislative history and the provisions of ANILCA Section 1315 clearly demonstrate that Congress did not consider the retention of existing cabins and shelters or the construction of new cabins and shelters to be inherently inconsistent with wilderness purposes or values. What is equally clear is that, by authorizing the use and construction of cabins and shelters, Congress did not view placement of a properly designed and constructed rustic cabin or shelter as constituting an inappropriate alteration or disruption to the wilderness character of an area.

These views are also why Congress cautioned agencies against adopting an overly broad, all inclusive wilderness management policy and encouraged the development of policies on a specific area by area basis. Congress long ago recognized that a “one size fits all” approach to wilderness management is not appropriate in Alaska.

This Commission has previously expressed concerns about the application of some Forest Service wilderness management policies that fail to adequately recognize the provisions of ANILCA. However, in this instance the Region 10 Supplement to Forest Service Manual 2300 – Chapter 2320 *Wilderness Management*, Section 2323.13b clearly reflects ANILCA Section 1315(c) and provides appropriate guidance on existing cabins and shelters in wilderness areas in Alaska:

Existing Cabins. Existing (as of December 2, 1980) public use cabins and shelters may remain and may be maintained or replaced as provided by Section 1315(c) of ANILCA.

As the Forrest Service learned from the information submitted by the public on the history and use of the bathhouse, it is evident that the structure has been used extensively as a shelter in addition to its use for recreational purposes. There is no prohibition in ANILCA or the Forest Service Region 10 supplement that precludes use of this structure for more than one purpose.

Public Health and Safety

Perhaps most important for the purposes of deciding the future disposition of the bathhouse, approximately 37% (33 of 88) of the respondents indicated they had used the bathhouse for emergency purposes. The majority of those cited weather as the reason for their emergency use.

House Report No. 96-97 also speaks directly to the point of public safety and weather:

“The appropriate Secretary is also authorized to construct new cabins and shelters within Wilderness units. The Committee notes that this authorization is justified because of the vast size of many of the Wilderness areas designated by the Act. Moreover, the harsh weather conditions that

characterize Alaska often demand the existence of these cabins to permit safe utilization and full enjoyment of these areas set aside for public use.” (Page 228)

While some members of the public may view the bathhouse as solely a convenience that is not necessary for the use and enjoyment of the area, it is evident from the information provided by actual public users that it is also important for the protection of the public health and safety. Given the history of use of the bathhouse for both recreation and an emergency shelter, replacement of the bathhouse is consistent with the criteria found in ANILCA Section 1315 for the use and construction of such structures.

Proposed Replacement Structure

The EA (pg. 13) states that under Alternative 1 the existing 15.6 ft by 24 ft. (374.4 square feet) structure would be replaced by an 18 ft. by 23.5 ft. (423 square feet). The building footprint would increase by 48.6 square feet, not by 65 square feet as stated in the EA. The roof peak of the proposed structure would also be approximately 4 feet taller than the existing building.

The Commission recommends that the Forest Service reconsider the design of the replacement structure to avoid increasing either the footprint or the height. We understand that designing and building a structure that meets the necessary safety and ADA access requirements, as well as increased structural requirements for sustaining snow, wind and seismic loads, while maintaining the same footprint and height as the existing structure will be challenging. However, we believe that by not increasing the footprint or the height, the replacement structure with rough cut yellow cedar board on board siding will blend in better with the immediate and surrounding landscape than either the existing structure or a larger replacement structure.

Existing Bathhouse

We note that the bathhouse is currently closed because of safety concerns. During the appeal resolution meeting it was agreed that the Forest Service would send a structural engineer to determine if the bathhouse could be stabilized so public use could resume. If so, it was to be stabilized as soon as possible with the assistance of local communities. The Commission encourages the Forest Service to complete the inspection and take the necessary steps to stabilize the bathhouse so that it may reopen for use as soon as practicable. Stabilizing the bathhouse is important since, as the EA points out, any replacement work under Alternative 1 would likely not occur until 2013.

In conclusion, the Commission supports adoption of Alternative 1. As we have tried to explain above, this alternative is consistent with ANILCA, the Wilderness Act of 1964 and Congressional intent with regard to management of wilderness in Alaska. Cabins and shelters are important resources on the public lands in Alaska and Congress recognized that importance by granting the Federal land management agencies the necessary authority and flexibility to provide for their continue use, even in designated wilderness areas. We strongly

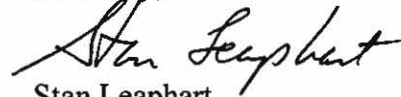
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urge the Forest Service to take the necessary steps to stabilize the existing bathhouse and to replace it with a new bathhouse as soon as funding is available. We are also committed to working to help secure that funding.

We appreciate the opportunity to comment on this proposal. If you have questions about our comments, or if we need to clarify anything, please contact our office.

Sincerely,



Stan Leaphart
Executive Director

CC: Sue Magee – ANILCA Program Coordinator
Marlene Campbell
Sandra & Joe Quinn
Lisa Busch
John Murray
Patricia & James Phillips