

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET  
DIVISION OF GOVERNMENTAL COORDINATION

BILL SHEFFIELD, GOVERNOR

STATE CSU COORDINATOR  
2600 DENALI STREET, SUITE 700  
ANCHORAGE, ALASKA 99503-2798  
PHONE: (907) 274-1581

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Boyd Evison  
Regional Director  
National Park Service  
2525 Gambell Street  
Anchorage, AK 99503-2892

Dear Mr. Evison:

The State has completed its review of the National Park Service (NPS) draft General Management Plan (GMP) for the **Noatak** National Preserve (NPr). The greatest deficiency of this and the other northwest area GMPs is that management intent regarding transportation and access, valid existing rights, and natural resources is lacking or inaccurate. Oftentimes, the GMP does not provide enough specific information to adequately assess the proposed actions. Specific information which is presented often lacks citations of reference sources.

Due to the lack of detailed natural resource management intent contained in these plans, review of the subsequent Resource Management Plans (RMP) will be particularly important. As we have noted for other GMPs, we request that the final GMPs include both an approximate time table for when these RMPs will be available for review and an outline of the review process.

These problems were previously noted in the State's comments on the draft Statements for Management for these areas and we are disappointed that there has been little improvement. As with all other GMPs, we are particularly concerned that the Management Objectives in those documents were not subject to the same public participation requirements for GMPs yet are used as a basis for management decisions. Inclusion of the objectives as an Appendix downplays their significance, consequently discouraging appropriate public review.

The remainder of our comments are grouped into four major categories, Access and Transportation (page 2), Natural Resource Management (page 7), Visitor Use and Facilities (page 20), and remaining comments organized by chapter (page 24). Therefore the order of our comments does not reflect their importance. We realize that some of these comments may appear repetitive. This

is due in part to the organization of the GMP itself, which contains discussions of selected topics in different contexts throughout the document.

### ACCESS AND TRANSPORTATION

We recommend that NPS make several changes to the portions of the GMP that address transportation and access. ANILCA Section 1301(b)(4) requires GMPs to include "a plan for access to, and circulation within, such unit..." (emphasis added). Currently statements addressing access are spread throughout the GMP making it very difficult to ascertain NPS management intent. All management intent regarding access and transportation should be consolidated in a single location and logically organized. In this manner, the "plan" required by ANILCA may be more evident. We have the following general recommendations regarding the organization and content under The Region, the Preferred Alternative, and the Land Protection Plan. Following these comments are page-specific recommendations for additions or revisions and the identification of other State concerns.

#### GENERAL ORGANIZATION OF ACCESS ISSUES

The sections on access and transportation in the Region chapter should be consolidated and should include a summary of the existing roads, trails, airstrips, and waterways used at one time or another for transportation within the NPR boundaries, including a brief discussion about the historical use, current use, and management status of each. The information in this section should include, but not be limited to 17(b) easements, RS 2477 rights-of-way, and the Noatak to Coast Winter Trail.

More specifically, the discussion of 17(b) easements reserved pursuant to Section 17(b) of the Alaska Native Claims Settlement Act (ANCSA) should include a description of the easement types and uses for which each easement was designated. A list of all 17(b) easements within the NPR or on adjacent lands that terminate at the NPR boundary should also be included. Enclosed is a partial list of the 17(b) easements that should be included in the plan. A more complete list and additional information about these easements may be obtained from the Bureau of Land Management (BLM) or an affected ANCSA corporation. We also suggest referencing the section of the GMP which will be addressing management of these easements.

The discussion of Revised Statute (RS) 2477 should briefly describe the nature of these rights-of-way and include a list of possible RS 2477 rights-of-way in the NPR with available information regarding the current and historical use and the management status of each. The Alaska Existing Trail System, 1973 was asserted by the State in April, 1974 and therefore should be

considered as a source of possible valid RS 2477 rights-of-way and included in the plan. (Pertinent portions are enclosed). A reference to the section of the plan addressing management of these rights-of-way is also recommended.

The discussion of the Noatak to Coast Winter Trail should state that the route is a possible RS 2477 right-of-way.

In addition to the proposed reorganized sections above, the document should contain a map of access patterns similar to the "Existing Condition" map on page 5 of the Bering Land Bridge GMP. It should include all traditional access routes, airstrips, easements, the above-referenced Alaska Existing Trails System and travelled waterways. This map would assist in meeting the requirements of ANILCA Section 1301(b)(4).

As in the Region chapter, the Preferred Alternative should also address 17(b) easements, RS 2477 rights-of-way. Non-exclusive use easements should also be discussed.

The section on 17(b) easements in the Preferred Alternative should reference the list of easements in the Region chapter. It should also indicate what additional restrictions, if any, NPS intends for these easements, or state that policy for NPr management does not apply to 17(b) easements.

The discussion of RS 2477 rights-of-way in the Preferred Alternative should similarly reference the rights-of-way listed under Region and include the following language:

"The National Preserve is subject to valid existing rights, including rights-of-way established under Revised Statute (RS) 2477 (43 U.S.C. 932). The State may identify and assert additional RS 2477 rights-of-way within the unit.

"The State has authority to manage public rights-of-way and may do so cooperatively with the underlying fee landowner. The National Park Service, as landowner, may petition the State to disclaim an interest in or vacate any rights-of-way and/or may enter into a cooperative management agreement with the State."

Unless a cooperative management agreement between the State and NPS is developed, it is inappropriate to state that users of any rights-of-way must comply with applicable NPS permit requirements.

The requested discussion of non-exclusive use easements in the Preferred Alternative chapter should outline the NPS position on the use of these easements. Non-exclusive use easements may be reserved by BLM across Native allotments when trails or areas of

prior established public use overlap an allotment application. The use of non-exclusive use easements is established in the Regional Solicitor General's Opinion dated December 22, 1983 (attached). We suggest that NPS consider the benefits of requesting that BLM reserve an easement for important trails. The reservation of such easements in appropriate circumstances could protect long-standing public access to adjacent public lands and resources within the NM&P while retaining the allotment holders' property rights. Management questions associated with this land protection alternative should be addressed in this section. Pursuit of this option (and incorporating cooperative agreements or cooperative management with the State) would reduce or avoid confrontation and expensive litigation over RS 2477 rights-of-way that overlap these easements.

#### PAGE-SPECIFIC COMMENTS

Page 1-8 - last paragraph - NPS states: "...some groups are advocating that management restrict aircraft access and powerboat use in the upper Noatak region so as to maintain the environment in accordance with ANILCA." Please note that ANILCA precludes any access restrictions until it is determined that detrimental impacts on the environment may occur. The issue summary on page 1-9 should also reflect the possible affects of access restrictions on recreation and subsistence activities.

Page 2-3, paragraph 2 - All-terrain vehicles (ATVs) should be included in this list of access means.

Page 2-45, paragraph 3 - "The State of Alaska has also annually funded the marking of a winter route between Kotzebue and Noatak. A portion of this route crosses the southwest edge of the preserve at two locations." These locations should be noted on the access map recommended earlier in this letter.

Page 3-6, paragraph 1, fourth sentence - Limitations on visitor and subsistence uses are also subject to specific ANILCA provisions such as Title XI which requires hearings and notice prior to restricting access.

Pages 3-15 to 3-16 - This section could be clarified by reorganizing the parts around subheadings. There should be a separate section for 17(b) easements and RS 2477 as we recommended earlier.

This section should also address the potential for transportation corridors in the Preserve, including recognition that there may be a need for extraction of gravel in the event that a corridor is developed.

Pages 3-15 to 3-16 - The paragraphs concerning snowmachines, off-road vehicles, dogs, horses and other pack animals are currently misleading. It implies that NPS permits are required for us of RS 2477 routes. The CSU units were established by ANILCA subject to valid existing rights. Therefore this section should identify that State management authority applies to valid RS 2477 rights-of-way, and indicate that the management of these rights-of-way may be addressed through cooperative management agreements with the State. The second paragraph on page 3-16 should be consistent with the language proposed on page 3 of this letter.

Page 3-15, Access and Circulation - The third paragraph recommends that aircraft fly 2,000 feet above ground level and along prescribed aircraft corridors. It will be difficult to monitor and encourage strict compliance with these recommendations. Weather conditions and the rugged terrain should dictate flight patterns and altitudes throughout the NPr. General flight corridors and advisory flight patterns should be advisory only. Language containing these non-binding guidelines should also be uniform throughout the draft GMPs. Once the plans are approved it may be useful to inform the flying public through the FAA "Notice to Airmen" regarding such non-binding guidelines.

We also request that the following language (modified slightly from the Bering Land Bridge GMP, page 3-25) be included in this section:

Routes and new modes of access for subsistence will be analyzed in terms of potential for impacts on the resources (vegetation, wildlife, soils, etc.) of the unit and upon other uses of the area. New modes of access that originate from technological advances might be permissible in the unit if they do not create unacceptable impacts upon the resources and uses of the unit.

Page 3-16, paragraph 2 - "...it will still be necessary for users of any right-of-way to comply with applicable Park Service permit requirements." A clarification of intended permit requirements should be included as should intent to exclude valid uses of RS 2477 rights-of-way.

Page 3-16, paragraph 3 - Current transportation modes include all-terrain vehicles.

Page 3-19, paragraph 2 - We question the validity of "There are no established trails within the preserve." What constitutes an established trail? What about winter routes? RS 2477's are also not addressed.

Page 3-32 - We suggest that the section listing possible future cooperative management agreements should be expanded to include 17(b) easements, navigable waterways, and RS 2477 rights-of-way.

Page 3-36, last paragraph - The Visitor Use section and map on page 3-37 indicate an aircraft overflight minimum of 1500 feet, but pages 3-15 and 4-5 refer to 2000 feet minimum. (See related comment for page 3-15.)

Once the changes outlined above have been made, the Land Protection Plan should be revised accordingly to address all private or other non-federal lands or interests within its authorized boundaries. The State recommends the following changes or additions regarding access.

Page 5-4 - The summary should acknowledge potential RS 2477 rights-of-way, even though specifics of the corridors and actual acreages affected are not known at this time. The proposed method of protection should also reflect these rights-of-way.

Page 5-8 - The table should acknowledge that there is an undetermined amount of land that is or may be encumbered with RS 2477 rights-of-way or 17(b) easements. This could be added as a footnote to the table.

Land Status Map (page 5-9) - This or a similar map should include the various RS 2477 rights-of-way and 17(b) easements identified in the attachments. Additionally, the legend to this map should refer to a document that will be available at various NPS offices where the reader can find the exact location of the 17(b) easements on more detailed maps than those included in the plan. The Department of Interior manual (601 DM 4) requires that this information be made available. The legend to the map should also mention that there may be additional trails that might be asserted under RS 2477 in the future. It should also include a statement that since Native conveyances have not been completed, the total list of 17(b) easements in the NPr is not yet known.

Land Protection Priorities (page 5-31) - The priority for protection of 17(b) easements and RS 2477 rights-of-way should be included or referenced on this map.

Pages 5-23 to 5-30, Recommendations - RS 2477 rights-of-way and 17(b) easements should be addressed here, including when and how a future tract-by-tract and trail-by-trail evaluation will be made, with an explanation about how the State and public will be involved in these decisions.

The section addressing RS 2477 rights-of-way should include a discussion of non-exclusive use easements as a method for

protecting RS 2477 routes. The management intent for RS 2477 rights-of-way should be consistent with the language proposed above.

Appendix J, Access Provisions - The CSU units were established in ANILCA subject to valid existing rights, which include RS 2477 rights-of-way. These pages imply that NPS permits are required for use of RS 2477 routes. The sections referring to snowmachines, ORVs, pack animals, and RS 2477 should acknowledge that all valid RS 2477 rights-of-way are subject to State management authority including the identification of the types of vehicles allowed to use these routes. Unless a cooperative management agreement between the State and NPS is developed, it is inappropriate to state that users of any rights-of-way must comply with applicable NPS permit requirements.

### NATURAL RESOURCE MANAGEMENT

#### FISH AND WILDLIFE

Generally, the plan could be greatly improved by increasing the level of detail for important resource issues such as fisheries (especially commercial fishing and fisheries improvement activities), access and recreation. During revision, we suggest the sections on wildlife be used as an example. These sections provide background information and distribution maps for the species occurring in the areas. They also express NPS's management intent by including the Alaska Department of Fish and Game (ADF&G)/NPS Master Memorandum of Understanding as an appendix. Intent is further clarified by language in the text acknowledging ADF&G's management responsibilities and expression of a desire to work within the State's regulatory framework.

Page 2-30, top paragraph continued from page 2-29 - Delete the last sentence. "The Noatak drainage is the northernmost extension of the salmon range." ADF&G has information documenting salmon occurring in more northerly drainages.

Page 2-30, paragraph 1 - Revise the phrase "although they [sheefish] are not known to inhabit the Noatak" to note that ADF&G has documented sheefish in this drainage, specifically the lower Noatak.

Page 2-30, paragraph 2 - Rewrite this paragraph as follows: "The long-nosed sucker is found in rivers, streams, and lakes in the Noatak drainage and is occasionally dried or smoked for eating..." Fourth sentence - revise to read: "Fish are an important component of the diet of the Native people within the region, and are used fresh, dried or frozen."

Page 2-30, paragraph 3 - Delete the last two sentences of this paragraph: "In addition, the subsistence fishery ..." through "... exceeds the total commercial harvest ..." because they are not accurate.

Page 2-30, after paragraph 3 - Insert the following: "Lake trout are documented as present in Lake Narvakrak, Desperation Lake, Feniak Lake and Kikitutorak Lake. Lake trout sport fishing demand may increase with increased use of Noatak. Opportunities for future fisheries improvement and inventories by ADF&G will be provided."

Page 2-44, Current and Potential Preserve Uses, paragraph 4 - The second sentence states that grazing activities are not permitted on federal lands within the preserve. The next sentence then states that "The lands around the lower river are considered potentially suitable for grazing reindeer or caribou." This inconsistency should be clarified. ADF&G also has a policy to discourage reindeer grazing where competition with caribou may occur.

Page 3-4, paragraph 1 - This paragraph fails to recognize man's role as a part of the natural process and should be clarified accordingly.

Page 3-8, paragraph continued from 3-7 - After the first sentence, this paragraph is inflammatory and not consistent with the statements of intent that follow, particularly paragraphs 1 and 2 on page 3-9. We request its deletion and replacement with the language offered in the In Summary section of these comments.

Page 3-8, paragraph 1 - Revise the first sentence to read: "Trapping, fishing, and hunting would be permitted within Noatak National Preserve in accordance with ANILCA and state regulations." Please change reference of "sport" to "recreational." The paragraph could be further improved by including reference to the Department of Interior fish and wildlife policy on state-federal relationships (Fed. Reg. V. 48, No 54, pp. 11642-11645, 18 March 1983). We find the reference to using oversight authority prior to exhausting other available regulatory avenues to be unnecessary and inconsistent with existing policy. We also cannot support any actions which threaten the welfare of a species.

Page 3-8, paragraph 2 - This paragraph should be revised to delete the extraneous information which follows the clear and accurate statement of intent in the first sentence. The quoted statement is a small part of the legislative history dealing with ANILCA and not a policy statement when standing alone. Also, NPS has excluded the following sentence from the quote: "The National Park Service recognizes, that subsistence uses by local rural residents have been, and are now, a natural part of the ecosystem serving as a primary consumer in the natural food chain." This sentence clarifies the intent of the statement and should be included.



In order to maintain healthy fish and wildlife populations, active management practices may be required. Manipulation of fish and animal populations or habitats may be the most efficient and desirable method to obtain this management goal. NPS should include a management policy consistent with the national policy which is flexible so that problem situations identified by cooperative research can be corrected. NPS Administrative Policies (1978) state: "In those areas where recreational hunting, trapping and fishing programs are authorized by law and consistent with park objectives, management programs may be directed toward the maintenance and enhancement of habitat for game animals." National preserves in Alaska should be managed under this policy. The legislative history (Senate 95-1300, October 9, 1978) also states that "The Committee notes that the Kelly River has potential for fisheries enhancement which may be allowed under appropriate regulation." The NPS policy also mandates that any management of fish or wildlife populations on NPS lands must be a cooperative endeavor with the State. Trail management and campsite locations are forms of habitat management. As agreed in the NPS/ADF&G MOU and for the efficient management of resources, the State and NPS should plan for all forms of habitat management through cooperative efforts.

Page 3-8, last paragraph - For clarity, we suggest rewriting this paragraph as follows: "The Alaska Department of Fish and Game (ADF&G) conducts routine management activities on the preserve lands which do not involve construction, disturbance to the land, or alterations of ecosystems. The National Park Service will continue to permit and cooperate with ADF&G research projects that are compatible with the preserve's purposes. The National Park Service will inform ADF&G and cooperate where possible, in proposed fish and wildlife research such as: Dall sheep surveys, Arctic char  
...."

Page 3-9, last paragraph - The perpetuation of healthy fish and wildlife populations is also a primary concern of ADF&G and we seek to manage populations based on the most accurate and current data available.

Page 3-10, paragraph 1 - The proposed NPS/ADF&G coordination system to obtain harvest information has some merit but is not possible as proposed. We invite NPS to discuss these ideas with ADF&G to develop a feasible and mutually beneficial system to resolve these concerns prior to the final plan.

The GMP proposes dividing harvest ticket information into park units, among others. This concept has been discussed on numerous occasions and is not acceptable as indicated in

the Resource Management Recommendations for Noatak National Preserve (February 24, 1984 most recent update): "Natural resource management and human use of fish and wildlife cannot be effectively oriented along political boundaries ... existing Game Management Units and Subunits ... more accurately reflect needs of wildlife populations. ADF&G does not intend to redivide Management Units to correspond with subdivisions established by NPS within Noatak NPR."

ADF&G has extensive experience in attempting to acquire harvest information as well as monitoring levels of harvest through "other sources." They look forward to improving their system with NPS assistance. It is hoped that use of ADF&G's expertise will avoid developing an overlapping but possibly ineffective system.

Page 3-11, paragraph continued from page 3-10 - Please reference where the information of increased harvest pressure was derived.

Page 3-11, paragraph 1 - We would appreciate a reference citation for the assessment of "long term adverse affects ... associated with comparable hatchery operations" noted in this paragraph. The references to genetic integrity could also be addressed by references to the Genetics Policy which ADF&G adheres to in fisheries enhancement programs.

Page 3-15 Access and Circulation - The last paragraph on this page suggests flight restrictions in the Noatak River area as a stipulation for all special use permits. Such flight restrictions applied to ADF&G research and management activities could severely hamper the effectiveness of those activities.

Page 3-17, paragraph 2 - The proposal to not allow new shelters, tent platforms, etc. is not acceptable. As proposed it could impact NPS's and ADF&G's abilities to conduct research and management activities and prevent traditional harvest activities. Please see related general comments.

Page 3-17, Closures - Revise the first sentence to: "hunting, fishing, trapping, camping, carrying firearms,..."

Page 4-6, last paragraph - "The Kelly River site would occur at a location that is already subject to intensive visitation ..." We request that NPS address intent regarding this area fully in the Preferred Alternative; this is the first mention of the "popularity of the fishing" there.

### Subsistence

Page 1-4, paragraph 4 - Subsection (c) should also be included due to its reference to subsistence as a purpose of CSUs:

"Sections 101 (a), (b), (c) and (d) of ANILCA state the general purposes for all conservation systems units established by the Act."

Page 2-4, Land Uses - The first sentence states: "Regional land uses may be generally described as occasional and intermittent." This may be true for the out-of-region visitors but is certainly not true of the local subsistence users. This sentence should be modified accordingly.

Page 2-6, paragraph 2 - The plan should be revised to include the subsistence definition presented in ANILCA rather than the definition currently included. Problems occurring later in the plan are a result of using an inappropriate definition, which eliminates consideration of the significant role of subsistence in a cash economy.

Page 2-49, map of Primary Subsistence Use Areas. This map should be corrected to show hunting and fishing on the whole Noatak River system and all subsistence activities around Noatak Village.

Page 3-3, Natural Resource Management - Subsistence should be acknowledged in this section. Section 802(2) of ANILCA clarifies that "nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority consumptive uses of all such resources on the public lands of Alaska..." The last paragraph also fails to acknowledge man's role as a part of the natural environment. Legislative history recognizes that role in uses of the fisheries and wildlife resources and uses of the environment. Prohibiting any form of manipulative management violates this recognition. However, we agree that careful evaluation of resource uses and conditions should precede any new manipulation and we request this paragraph be modified accordingly.

Page 3-19, last paragraph - We are appreciative of NPS intent to recognize subsistence uses in this manner so as to avoid conflicts among users.

Pages 3-22 to 3-25, Subsistence - It is inappropriate to locate this discussion in this section. Subsistence is not a visitor use but an integral part of the preserve.

Page 3-25, #4 - This statement of intent is positive and consistent with Congressional intent. We request similar intent be included in all NPS plans.

### Trapping

The Board of Game has not found it necessary to establish categories of trapping within Alaska. The State recognizes the ANILCA legislative history (Congressional Record-Senate, August 18, 1980, S11136) indicating congressional intent that trapping which "becomes a business with employees paid to support the trapping operation" is not in keeping with intent of the Act. Any intended additional restriction of trapping, however, is substantially more restrictive than this intended distinction and we cannot support such restrictions.

We request that NPS coordinate with ADF&G in efforts to monitor the furbearer resources to assure their health and welfare rather than develop unnecessary categories of resource users. This is consistent with Congressional intent which directs NPS to ". . . issue appropriate regulations to insure that exploitive forms of trapping do not take place and that there is no substantial or permanent harm to the wildlife populations."

The only form of trapping not permitted in either parks or preserves is commercial trapping defined by ANILCA legislative intent as that involving the employment of other persons. We request that NPS accommodate this legislative intent and note that both ANILCA and the Board of Game do not distinguish categories of trapping, recognizing it as an allowed use in parks and preserves. Trapping is managed through seasons and bag limits to protect the furbearer populations. It is inconsistent for NPS to propose a conflicting classification system and subsequent elimination of uses allowed by law.

Page 2-4, Land Uses - The second sentence should include trapping as a land use: "They include subsistence, recreation, hunting, fishing, trapping, . . ." Please note that the Congressional Record-Senate, August 18, 1980 directs "Subsistence uses, sport hunting, sport fishing, and trapping are allowed within the Preserve." and further clarifies that "commercial trapping shall be allowed" among other uses.

Page 2-48, paragraph 1 - The statement implying that cash derived from trapping is used only for purchase of clothing and "subsistence tools" is inaccurate. Trapping is at times an important contributor to the general cash economy of rural residents.

Page 3-25, #3, Subsistence Trapping - The Alaska Board of Game and ADF&G do not recognize a distinction such as "subsistence trapping". We request NPS clarify any intent regarding such a distinction, particularly how this could affect trapping within the preserve. We request

opportunities to resolve this major issue with NPS prior to completion of the final plan. (See related general comments above.)

### In Summary

Overall, we are concerned that the GMP, particularly pages 3-7 to 3-11, does not adequately reflect intent to coordinate and cooperate with ADF&G regarding fisheries and wildlife. We

request adoption by the NPS of the following language in this section to resolve many of the above concerns and clarify management intent and policies:

"The National Park Service (NPS) is mandated by the Alaska National Interest Lands Conservation Act (ANILCA) and other laws to protect the habitat for, and populations of, fish and wildlife within the Noatak NPR, ANILCA Section 201(8). The NPS management of fish and wildlife will generally consist of management of the human uses and activities which affect such habitat and populations, rather than the direct management of fish and wildlife resources.

"The Alaska Department of Fish and Game (ADF&G), under the constitution, laws, and regulations of the State of Alaska, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State. Within conservation system units, including Noatak NPR, State management of fish and wildlife resources is required to be consistent with the provisions of the ANILCA and NPS policy.

"The NPS and the State of Alaska will cooperate in the management of the fish and wildlife resources of Noatak NPR. A memorandum of understanding between the NPS and the ADF&G (see Appendix D) defines the cooperative management responsibilities of each agency. The 'Department of the Interior, Fish and Wildlife Policy: State and Federal Relationships' (43 CFR 24) further addresses intergovernmental cooperation in the protection, use, and management of fish and wildlife resources. The closely related responsibilities of protecting habitat and wildlife populations and providing for fish and wildlife utilization require close cooperation of the ADF&G, the NPS, and all resource users.

Hunting, fishing, and trapping are allowable uses in the Preserve, (ANILCA Sections 1313 and 1314, and applicable State law). The ANILCA requires that such harvest activities remain consistent with maintenance of healthy populations of fish and wildlife, ANILCA Section 815(1). Congress recognized that programs for the management of 'healthy populations' may differ between the NPS and the

U. S. Fish and Wildlife Service due to differences in each agencies management policies and legal authorities (Senate Report 96-413, p.233).

"The State of Alaska, through the Boards of Game and Fisheries, is responsible for establishing fishing, hunting, and trapping regulations for the preserve, consistent with provisions of the ANILCA. The NPS will cooperate with the State wherever possible in establishing those regulations in a manner that is compatible with preserve management goals and objectives.

"The ANILCA authorizes the State to manage the taking of fish and wildlife for subsistence purposes on federal lands if a State program is implemented which satisfies certain criteria in the ANILCA Title VIII. Such a State program has been implemented.

"Customary and traditional subsistence use is considered to be a natural human role, as indicated by the legislative history of the ANILCA: 'The NPS recognizes, and the Committee agrees, that subsistence uses by local rural residents have been, and are now, a natural part of the ecosystem serving as a primary consumer in the natural food chain. The Committee expects the NPS to take appropriate steps when necessary to insure that consumptive uses of fish and wildlife populations within the NPS units not be allowed to adversely disrupt the natural balance which has been maintained for thousands of years.' (Senate Report 96-413, p.171).

"Within the preserve the NPS ' . . . may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral or faunal protection, or public use or enjoyment', ANILCA Section 1313. Additionally, the NPS ' . . . may temporarily close any public lands . . ., or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such populations', ANILCA Section 816(b). Except in emergencies, all such closures must be preceded by consultation with appropriate State agencies. If it becomes necessary to restrict the taking of populations of fish and wildlife in the preserve, non-wasteful subsistence uses are accorded priority over the taking of fish and wildlife for other purposes.

"The State has developed resource management recommendations containing management guidelines and objectives that were generally developed for broad regions. Therefore, some of

the guidelines and objectives may not be applicable to the preserve. The master memorandum of understanding indicates that the NPS will develop its management plans in substantial agreement with State plans unless State plans are formally determined incompatible with the purposes for which the preserve was established.

"Habitat and animal population manipulation will not be permitted within the Noatak NPR except under extraordinary circumstances and when consistent with the NPS policy. Congressional intent regarding this topic is presented in the legislative history of the ANILCA.

"In recognition of mutual concerns relating to protection and management of fish and wildlife resources, the NPS and the ADF&G will continue to cooperate in the collection, interpretation, and dissemination of fish and wildlife data. The NPS will continue to permit and encourage the ADF&G to conduct research projects that are compatible with the purposes of the preserve. The NPS will ensure access for State officials for purposes of conducting research and managing fish and wildlife resources.

"The preserve's informational programs will inform visitors about the occurrence of human use activities in the preserve in order to avoid user conflicts. Information will also be provided about activities that can result in disturbance of wildlife and their habitat.

"The NPS Resources Management Plan for the Noatak NPR will be developed and subsequently revised in cooperation with the State and is anticipated for initial completion by (date). The plan will be reviewed by the public and any major change in direction, philosophy, or goals is subject to public involvement requirements of the ANILCA Section 1301. The plan will describe in detail the scope of scientific research and resource management methods that will be cooperatively employed so that the NPS has a better understanding of preserve resources for utilization in future resource-related decision-making. The highest priorities of the resource management plan over the next 5 to 10 years follow." [A list should be included here accompanied by appropriate discussion.]

#### Shelters and Temporary Facilities

We cannot support NPS intent to prohibit tent platforms, shelters, and other temporary facilities (page 3-17). This implies that a recreational hunter in the preserve cannot erect a temporary shelter or even use a tent. As sport and subsistence hunting are allowed on preserve lands, temporary shelters (tents,

lean-tos, etc.) that are a normal part of camping should not be restricted. The legislative intent regarding the (incomplete) quote from ANILCA Section 1316(b), was not to limit camping. We propose the following sentence be inserted after the first sentence in this paragraph: "This is not intended to limit the use of tents that are normally a part of wilderness outings." In general we disagree that facilities and equipment related to the taking of fish and wildlife are a "significant expansion". Such a determination may severely limit continuance of recreational and subsistence harvest activities which are not detrimental to the resources.

### NAVIGABILITY

The GMP proposes to work with the State to mitigate any adverse human activity on navigable rivers (page 3-35). The State is willing to consider NPS management proposals for management of the rivers, but only upon application by NPS to DNR Division of Land and Water Management.

The following paragraphs should replace the second paragraph under the heading Water Rights and Navigability on page 3-7 of the Preferred Alternative:

At the time of Statehood, the State received ownership of the beds of navigable waters to the "ordinary high water mark". At present the \_\_\_\_\_ (name of waterways) \_\_\_\_\_ have been determined navigable. Navigability determinations have not been made on other rivers within the NPR. The NPS will seek cooperative agreements with the Department of Natural Resources concerning the management of submerged lands under navigable waters. NPS will make requests for the use of these lands to the appropriate State agencies.

Page 5-4, Summary and 5-8, Table 4 - The summary should include a footnote or other acknowledgement of the unresolved navigability status of many of the waterbodies in the NPR.

### WATER RIGHTS

Federal reserved water rights are created either expressly or by implication when federal lands are withdrawn from entry (by Congress or other lawful means) for federal use. It is the State's position that federal water rights, both instream and out-of-stream, are either generally or specifically reserved for the primary purposes of the reservation. Characteristics of a federal reserved water right include:

- 1) it may be created without actual diversion or beneficial use,
- 2) it is not lost by non-use,
- 3) its priority date is from the date the land is withdrawn for the primary purpose(s) involved,



4) it is the right to the minimum amount of water reasonably necessary to satisfy both existing and reasonable foreseeable future uses of water for the primary purpose(s) for which the land is withdrawn. Water for secondary purposes must be obtained under State law, AS 46.15.

Discussion at the March, 1985 meeting of the Alaska Water Resources Board emphasized the importance of two aspects of federal reserved water rights. First, they are recognized only for the primary purposes for which the land was withdrawn, and second, they apply only to the minimum amount of water reasonably necessary to satisfy the primary purposes of the withdrawal. Legislation establishing the withdrawal of land is critical, because it establishes the priority date for the federal reserved water right, and often expressly states the primary purposes of the withdrawal. All of these aspects of federal reserved water rights - the priority date, the primary purposes, and the minimum amount of water reasonably necessary to maintain the primary purposes - are important concepts that should be reflected in the plan.

To reflect these concerns, we recommend that the following language replace the first paragraph under the heading Water Rights and Navigability on page 3-7:

"The water resources of the Noatak National Preserve will be managed to maintain the primary purposes for which the unit was established. The primary purposes of this NPR are \_\_\_\_\_, as cited in the following legislation establishing this national preserve (reference to legislation). Water for secondary purposes and all other uses within the NPR will be applied for under AS.46.15. Specific water resource requirements for the primary purposes of the NPR will be identified and the minimum amount of water reasonably necessary to maintain these purposes will be quantified in cooperation with the State of Alaska. Once federal reserved water rights have been quantified, the National Park Service will file this information with the State in accordance with State laws."

Pages 5-23 to 5-30 - Although addressing the water appropriation issue is different from addressing inholdings within the NPR, some mention of these "non-federal interests" within the unit boundary should be made in the Land Protection Plan. Portions of the language suggested above could be used. NPS water needs above and beyond the minimum amount reasonably necessary to maintain the primary purposes of the unit should accordingly not be considered a federal reserve right or interest.

MANAGEMENT OF THE WATERCOLUMN

We request that the GMP discuss the management of the watercolumn of waterbodies in the NPR. These watercolumns remain subject to management authority by the State, although the State may choose to cooperatively manage such areas with NPS on a case-by-case basis.

Page J-1, Motorboats - The wording should be revised to acknowledge the State's management authority over the watercolumns in the NPR.

MINING

The plan should include a more detailed discussion of the Red Dog deposit which lies just west of the NPR. Additionally, the plan should acknowledge that the mineral belt which hosts the Red Dog deposit also crosses the northern portion of the NPR and is known to contain similar occurrences such as those found at Red Dog.

The plan should also acknowledge the importance of the Ambler mining district, and that development of this area may be dependent on establishing a transportation route from Ambler westward to the coast through the preserve. The plan needs to address this issue and include a discussion of the corridor and how the corridor will be accommodated across preserve lands.

The fourth paragraph on page 2-45 states that although three transportation corridors to connect the Ambler Mining District to the coast near Cape Krusenstern have been identified, there are no current or proposed plans for further study of any of the three corridors.

While it may be true that further study of the three transportation corridors identified in the Western and Arctic Alaska Transportation Study has not yet been scheduled, further analysis of these routes is likely because of access to the Ambler Mining District. This should be acknowledged in the GMP.

Page 5-12, last paragraph - We are concerned that NPS did not address the potential major affects of the Red Dog mining operation on uses of the preserve in the GMP and Environmental Assessment. The statement "... the National Park Service would offer to work with the developers surrounding the preserve to mitigate ..." should be addressed in the GMP. Development of the inholdings and surrounding area should clearly be major items addressed in the management alternatives.

OTHER NATURAL RESOURCE COMMENTS

The legislative history in Congressional Record-Senate, August 18, 1980 instructs the Secretary of Interior to establish an advisory board "to encourage and guide a comprehensive, interdisciplinary scientific research program within the area." We are concerned that intent regarding establishment of this board has been omitted from the GMP.

Page 2-46, Scientific Studies - Reference to the individuals or agencies conducting each of these studies would be appropriate

Page 3-6 and 3-7, Fire Management - We support NPS intent to conduct active management programs to restore areas that have been impacted. We are pleased that this intent will be applied in the fire management program as well as specific sites identified for revegetation.

Page 3-11, last paragraph - The State has not yet reviewed the draft Resource Management Plan. We further request explanation of the process insuring the State and public's opportunity to participate in ongoing resource planning.

Page 3-33, Natural Resources Management - The exclusion of the prescriptive portion of the fire plan under this alternative is unnecessary and unjustified. It contradicts NPS intent to participate in the cooperative interagency fire management plan developed for the area and cooperative research and subsequent report being conducted with NANA Corporation.

Page 3-34 through 3-39 - We recommend that regardless of the selected alternative, the complete Interagency Fire Plan, resource assessments and cooperative agreements described for Alternative 1 be implemented.

VISITOR USE AND FACILITIES

Important natural resource areas which have a high potential for increased visitor use are not adequately addressed. For example, the Kelly River confluence is noted as being on a major caribou migration route and is an important fishing area for both local residents and visitors. This area was also mentioned in the legislative history of the Alaska National Interest Lands Conservation Act (ANILCA) (Senate Report 95-1300, p. 136) as a potential site for fisheries enhancement and increased visitor use. Because of the diversity of use of this and similar areas (e.g. Grand Canyon of the Noatak) it is imperative that NPS address how they intend to manage them to protect the natural resources while allowing for both local and visitor use.

Page 1-10, Limiting Uses - This section implies intent to establish limits on visitor use. If limited use permits are a possibility, NPS should detail high visitor use areas and the scope of any proposed management actions in Chapter III.

Page 3-17, paragraph 1 - Modify the first sentence to "all nonlocal recreational visitors."

Page 3-34 through 3-39 - The only apparent differences in the preferred alternative are doubling of the staff, new office space and ranger stations in comparison to the "status quo" alternative. The provision of alternatives for public review and comment in this manner is somewhat spurious.

Page 4-8, paragraph 5 - The voluntary registration program for recreational users needs to be made clearer in the plan. We strongly urge NPS not to apply this to local residents nor intend to make such registration a requirement. Please see comments for page 3-17.

#### REMAINING COMMENTS BY CHAPTER

##### ENVIRONMENTAL CONSEQUENCES

We are disappointed by the limited scope of the two alternatives offered. For each plan, one alternative is described as "status quo", although new management restrictions are proposed. The other, the "preferred" alternative, is virtually the same as "status quo" except for recommendations for increased staffing and facilities. We would have preferred for NPS to expand the range of alternatives by offering one which truly reflects the existing situation and others which deal with varying degrees of access, recreational use and wilderness proposals, as well as staffing and facility levels.

Page 4-3, paragraph 2, under Natural Resources - The last sentence implies that trapping in the preserve is only allowed by subsistence users. Sentence should read:  
"Hunting, fishing, and trapping would be undiminished..."

Page 4-4, paragraph 2 - Recognition should be included of the baseline study of genetic characteristics of Noatak chum salmon currently being conducted by ADF&G.

Page 4-4, paragraph 2 - We are concerned about what is meant by the phrase "additionally, the proposed harvest comprehensive system for harvest ticket reporting..." Development of such a system was not made clear in this plan. Page 3-10 refers to weaknesses of the existing system and intent to coordinate various ongoing programs but does not propose a new system. We look forward to working with NPS to resolve

problems but do not support the intensive system implied here without proper coordination and cooperative evaluation.

"The monitoring of....routes and modes of access for subsistence hunting would help to ensure healthy wildlife populations,..." This statement addresses intent to pursue an access control program which was not discussed in the plan. Further we are not sure how such monitoring will ensure the health of wildlife.

Page 4-10 to 4-11, Impacts of Alternative 2- The comparison of impacts between the alternatives is very weak. The emphasis under Natural Resources is placed on potential damage to the resources if the status quo monitoring and management programs continue. Discussion and Preserve Uses also speculate possible impacts if monitoring of resource uses is not increased. However, the following statement (accurately) describes impacts regardless of which alternative is selected: "However, it is possible that even with resource monitoring, impacts like population declines or other resource deterioration might not be detected until they reach a more recognizable or serious stage." Even the Conclusion does not clarify any difference between the alternatives: "The possibility of adverse impacts....would continue in this alternative."

The status quo alternative may propose no new capital improvements but it certainly costs more than the "\$0" indicated under column "Alternative A." We request operating and capital costs be included for comparison of all alternatives. It would assist reviewers to reference Appendix D and/or merge the tables.

#### LAND PROTECTION PLAN

The Land Protection Plan should include a rough estimate of the cost of implementation. These figures should then be compiled for all nine GMPs and Statewide recommendations for acquisition reconsidered based on this information. Until this is done, it will be unclear how realistic the acquisition recommendations are for the various NPS units.

In light of budget constraints, we question the viability of the emphasis on acquisition as a preferred method of protection. Greater emphasis on other methods such as cooperative agreements and easements would be more cost effective, increase NPS flexibility, and likely improve working relationships with local landowners.

In discussions of future land acquisitions or boundary changes, the GMP defines areas and presents justification for inclusion of candidate lands into the Preserve. However, nowhere do they stipulate whether those lands are candidate areas for park, preserve or wilderness designation even near boundaries. This

intent may have major ramifications because of potential access, resource use, and other management consequences. We suggest that each of the tracts that are being considered have an accompanying sentence stipulating what status will be designated and what management intent will be applied to that particular parcel if acquired. We request further opportunities to review this intent prior to adoption of the final GMP.

We are concerned about the general nature of the Land Protection Plan, particularly the lack of specific issues identification. Greater emphasis needs to be placed on impacts of potential adjacent land use activities on habitat and resource uses. We also would appreciate assurances that the land protection plan will be subject to review and updated or revised as necessary.

The State does not support the inclusion of additional lands in T. 31 N., R. 17 W., K.R.M. into the NPr. State mining claims hosting significant potential for mineral deposits are located in this proposed addition. Adding this township to the preserve would place additional constraints upon these claimants and make developing those resources more difficult. The State selected this area for its high mineral development potential. We request that the plan acknowledge the State's position on this exchange.

The following pending State land selections are inside the boundaries of the NPr and are not identified in the GMP. The land status map and portions of the plan that address non-federal lands should be revised to address these selections.

Legal Description	Selection Date	State Selection #
T. 30 N., R. 17 W., K.R.M. Secs. 1-5, 8-17, 20, 21, 28, 29, 32, and 33	7-25-78	GS-2546
T. 31 N., R. 17 W., K.R.M. Secs. 1-6, 8-11, 15, 16, 25, 35, and 36	7-25-78	GS-2549
T. 32 N., R. 17 W., K.R.M. Secs. 1-36	7-25-78	GS-2551
T. 32 N., R. 18 W., K.R.M. Secs. 1, 2, 11-14, 24, 25, and 36	7-25-78	GS-2552

Page 5-11, #3 - We suggest revision to "Subsistence and recreational uses of natural resources ...."

Page 5-23, Exchange - The legislation also provided for boundary adjustments as a key means to protect habitat and other important features. This should be addressed as a primary component of this section.

Page 5-24, Priorities - The State recommends that lands important for the maintenance of subsistence resources and their uses be acknowledged as a priority over "primary visitor or administrative uses." We recommend this be the first item in the list under Priority A.

Page 5-24 through 5-30 - Upon reviewing these proposals we conclude NPS is prioritizing acquisition of most key access sites. These sites are generally used by the public for recreational and subsistence activities. Given the omission of an access plan in the GMP, as required by ANILCA Section 1301, we are concerned that this intent may unnecessarily restrict access for public uses of the resources.

Page 5-33, Boundary Changes - This management intent should be included in the GMP and addressed on pages 5-4 and 5-23, as previously described. As requested in the State's Resource Management Recommendations, we would appreciate opportunities to discuss boundary changes with NPS for the purpose of protecting the resources and habitat, among others.

#### WILDERNESS SUITABILITY

The Noatak GMP has been identified as being unsuitable for wilderness (page 6-6) areas with roads or trails that are improved by mechanical means and regularly used by motorized vehicles. However, the Wilderness Suitability map on page 6-9 shows areas suitable for wilderness that include regularly used corridors for public access. The State recommends that NPS reevaluate their wilderness suitability map by overlaying this map with a map showing the possible RS 2477 rights-of-way and 17(b) easements that have been provided by the State. Areas that overlap with these easements or trails should not be considered suitable for wilderness.

#### RIVER MANAGEMENT PLAN

We request assurance on page 7-4 that that development of this river management plan will also include public and state participation as required for the referenced GMPs.

#### REMAINING COMMENTS

Page 1-4, paragraph 2 - to be consistent with other NPS plans approximate acreage of the preserve should be included here:

"...the monument became Noatak National Preserve, containing approximately 6,460,000 acres of public lands. Section 201(8)..."

Page 1-7, paragraph 1 - Section 701 (7) designated "approximately" not "over" 5,800,000 acres as wilderness.

Page 8-3, (3) - "Providing opportunities for Alaska Natives residing in the preserve ..." should be corrected to "for Alaska residents of the preserve ..."

#### THE ALASKA COASTAL MANAGEMENT PROGRAM

The Division of Governmental Coordination has also completed the coastal consistency review of this draft plan. Based on our review, the Division agrees with the NPS determination that the plan is consistent with the Alaska Coastal Management Program (ACMP). However, we wish to note that the more detailed Resource Management Plan as well as permitted activities and NPS actions on federal lands that "directly affect" coastal resources are also subject to the requirements of the ACMP. In other words, State agreement with the federal consistency determination of the GMP at this time does not automatically guarantee that the recommended activities will be consistent with the ACMP when detailed later in specific management proposals. We therefore recommend that NPS involve the local Coastal Resource Service Area Boards and State agencies in the development of the more detailed actions.


We request that the final GMP acknowledge the ACMP and outline the process under which NPS will ensure that more detailed management plans, NPS actions, and permitted activities will be consistent with the ACMP. Reference should be made to the MOU between NPS and DGC (currently in draft) which addresses this process.

We have commented only on parts of the plan to which we have concerns. However, State agency reviewers wish to be advised of any changes to other parts of the plan that may result from comments of other agencies or individuals. Many of the comments included here will reappear in our comments on the remaining National Park Service GMPs. Unless there is a reason why the response to these comments should be different, they deserve a consistent response on a statewide basis.



Thank you for the opportunity to review this draft General Management Plan for Noatak NPR. As noted at the beginning of this letter, we request that our concerns be addressed as consistently as possible in this and all remaining GMPs. If we can be of any assistance in clarifying these comments, please contact this office. The State looks forward to resolution of our concerns prior to adoption of the final plan.

Sincerely,



Sally Gibert  
State CSU Coordinator

ATTACHMENT

cc: R. Davidge, DOI  
J. Katz, Governor's Office, D.C.  
S. Leaphart, CACFA  
J. Leask, AFN  
R. McCoy, ALUC  
State CSU Contacts

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