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March 6, 1986

Mr. Paul Haertel, Superintendent
Lake Clark National Park and Preserve
701 'C' Street, Box 61
Anchorage, AK 99513

Dear Mr. Haertel:

The State of Alaska has completed its review of the National Park Service (NPS) draft Land Protection Plan (LPP) for the Lake Clark National Park and Preserve (NPPr). This letter is submitted on behalf of State agencies and represents a consolidation of department concerns and comments.

The State has the following general concerns with the LPP: (1) the plan provides inadequate guidance for determining compatible and incompatible uses of non-NPS land, (2) insufficient justification is provided for protection recommendations, and (3) determinations of compatibility do not adequately recognize State authorities and responsibilities.

These concerns are particularly applicable to the Compatibility of Land Uses section of the LPP on pages 18-21. The lists of compatible/incompatible uses do not seem to adequately fulfill the NPS goal of "informing landowners about what uses of non-federal land are generally compatible with the purposes of the park/preserve" (page 18, paragraph 5). The listed criteria are often abstract, resulting in their meaning being subject to considerable interpretation.

We thus request that the NPS explicitly identify which uses of adjacent lands the NPS perceives to be incompatible and why. In particular, we request that the NPS make a clear link between uses it considers incompatible and adverse effects on NPS lands which are attributable to these uses. Incompatible uses should be defined as those uses which have a specific adverse effect on NPS lands. If this link cannot be made, we question the necessity of an incompatibility determination.

In previous comments to the NPS, the State has requested that the NPS recognize that various State laws and regulations already prohibit certain "incompatible uses". (See page 31 of the State's August 30, 1985 letter on the Katmai National Park and Preserve General Management Plan.) We again ask the NPS to

recognize State authorities and responsibilities (e.g., the Alaska Water Quality Standards). It is inappropriate for the NPS to apply oversight authority through a determination of incompatibility prior to application of available State regulatory mechanisms. We therefore recommend that the NPS acknowledge and rely on existing State authorities and responsibilities wherever possible when defining incompatible uses.

The appropriateness or application of some criteria also needs clarification. For instance, incompatible use #9 states "access means which significantly alter the wilderness scene" are incompatible. The NPS then offers the example "upgrading of road or airstrip landing to substantial increases in use." We question whether this example represents further restrictions than provided in previous LPPs, eg. "new airstrips" would be incompatible. There is no definition of what constitutes a "substantial increase in use". Would upgradings which do not result in increased use be compatible? ANILCA Titles VIII and XI guarantee the State and other landowners, residents, and resource users adequate access. Furthermore, we question what effect this criteria would have on the ability of Native corporations and local residents to provide visitor facilities and services, as provided for in ANILCA sections 1306 and 1307.

We note two primary concerns with the RECOMMENDATIONS section of the LPPs, as follows: 1) the recommendations are not specific to particular tracts of land and 2) the minimum interest findings lack adequate justification.

The LPP states "because of the amount of non-federal lands within the boundaries of the park/preserve and continuing changes in status of selected lands, it is not feasible to make comprehensive tract-by-tract recommendations at this time" (page 8). Consequently, the LPP groups non-NPS interests into "broad categories defined generally by resource values to be protected, location, and type of ownership." The LPP states that "further tract-specific analysis and recommendations will be made in future LPPs as more information become available." The State and Alaska Federation of Natives have previously objected to this approach for Lake Clark NPPr which also fails to satisfy the final interpretative rule for the preparation of LPPs (Federal Register, May 11, 1983). In order for an LPP to be an action plan (or "action element"), it must contain tract-specific analysis and recommendations. This information should be provided in the current draft LPP rather than waiting two years for the plan's revision.

The LPPs do not adequately justify on a tract- (or group-) specific basis either the need for protection or the reason why a particular protection alternative was chosen. This rationale or justification is an essential ingredient of a LPP. Without it, the public and adjacent landowners have no foundation for

assessing NPS proposals. (See pages 11-14 of the October 31, 1985 Report to the Secretary of the Interior by the U.S. General Accounting Office entitled New Rules for Protecting Land in the National Park System -- Consistent Compliance Needed.) The justification for the fee simple acquisition by exchange of priority group 1A provides a clear example of how adequate justification is missing from the recommendations. The reader is not told what the current uses of this area are, how these uses threaten park values, or why fee simple acquisition (as opposed to a lesser interest or cooperative agreement) is being recommended. Furthermore, in this particular justification, the NPS states that "Any development including rights of access under Section 1110 of ANILCA would adversely affect the wilderness values of the surrounding federal land." This statement appears to be in conflict with ANILCA Section 1110 which provides for rights of access regardless of land classification.

Finally, when and if new lands are acquired by the NPS, we request that NPS consult with the State and public before designating these lands as either park or preserve.

In summary we recommend that NPS reassess and clarify the section entitled Compatibility of Land Uses to achieve the following:

1. provide more specific guidance in the form of clear criteria on compatible/incompatible uses;
2. describe factors which result in NPS determining what uses are compatible/incompatible (i.e., the adverse impacts to adjacent NPS lands which can be expected to result from an incompatible use);
3. recognize State authorities and responsibilities in the compatibility section wherever appropriate; and
4. ensure that all determinations regarding incompatible uses include only those uses that actually threaten park resources/values.

We further recommend that the NPS expand the RECOMMENDATIONS section to:

1. provide more tract-specific information and recommendations; and
2. clarify on a tract-specific basis the uses and impacts that result in the need for land protection and NPS rationale in choosing a particular protection alternative.

PAGE SPECIFIC COMMENTS

Page 11, paragraph 8 - The plan states that no rare, endangered, or threatened species are known to occur in the park/preserve, yet on page 10 the plan specifically states that ANILCA requires the Lake Clark NPPr to be managed for, among other things, protection of peregrine falcons. This apparent contradiction could be corrected if the peregrine falcons in Lake Clark NPPr are identified as the non-endangered Peale's subspecies.

Page 12, paragraph 3 - The LPP states that previous owners of lands sold or exchanged to the NPS may retain a right of use and occupancy "for a period of up to 25 years or for life." Are these two separate types of rights, or is it 25 years or life whichever is shorter? The time period as stated is unclear.

Page 16, Section III, Land Ownership and Uses - A map depicting current patterns of federal and non-federal land ownership would be of benefit. By visually illustrating ownership, the State and public could better ascertain which laws and regulations apply to which tracts of land.

Page 16 - In February 1963, the State filed special selections specifically for the minerals, if any, reserved to the U.S. under small tracts (homesites, T & M sites, and Native allotments, etc.) in a large area generally covering the Kenai Peninsula, Upper Cook Inlet and the Susitna River Basin. These mineral estate (ME) selections do not apply to the partial ME in the absence of any surface-only interest.

According to State Division of Technical Services records, reserved ME selection A-058730 applies to any reserved minerals in the following townships within Lake Clark NPPr:

T 6-7 N, R 18 W, SM
T 8 N, R 18-19 W, SM
T 9 N, R 17 W, SM

The NPS should identify and address the existence of these State ME selections in the LPP. There may be other interests shown on State plats which should also be addressed. For guidance about how to obtain such information, please contact Craig Calhoun in the Department of Natural Resources Division of Land and Water at 276-2848.

Page 17 - Consistent with the State's February 9, 1986 comments to the NPS, the last paragraph should be replaced with the following language:

Shorelands, Tidelands and Submerged Lands

The Submerged Lands Act of 1953, the Alaska Statehood Act of 1958 and the Alaska Constitution provide for State ownership of the water (subject to the reservation doctrine discussed in the water rights section), shorelands (the beds of navigable waters), tidelands (lands subject to tidal influence and submerged lands (lands seaward from tidelands) to the "ordinary high water mark."

Determinations of what waters are navigable is an ongoing process in Alaska at both the administrative and judicial levels. At present the _____ River upstream or downstream to _____ (add other streams descriptions here if navigable) have been determined navigable by the Bureau of Land Management. Other rivers may be determined to be navigable at a later date. (Add description here of any tidelands and or submerged lands within the unit or state there are none within the unit.)

Management of Watercolumns

The NPS will oppose any actions or activities of the uses of waters that will adversely affect water quality or the abundance and diversity of fish and wildlife species in the unit. The NPS will work with the State on a case-by-case basis to resolve issues concerning the use of the various waterways where management conflicts arise. Cooperative agreements for the management of uses on the water will be pursued if a case-by-case resolution of management issues proves unacceptable to the NPS and the State.

Page 21 - The Chilikadrotna/Mulchatna parcels are State owned, not selected. The first sentence in the third and fourth paragraph should be revised to reflect this. Also, it should be acknowledged in the discussion about this exchange that the State has specifically evaluated this proposal during the development of the Bristol Bay Area Plan and rejected it. In general, we request that if the NPS has a specific land exchange it would like the State to consider that it submit a proposal directly to the State.

Page 22, Items 1 & 2 - The reference to the Bristol Bay Cooperative Management Plan should be corrected to read the federal Bristol Bay Regional Management Plan and/or the State Bristol Bay Area Plan. Additionally, the discussions in #1 and #2 about settlement should be revised. These projects were evaluated and endorsed during the cooperative Bristol Bay planning effort, in which the NPS and the Department of Interior were participants.

Page 22, paragraph 3; Page 23, paragraph 6 - Tazimina hydroelectric feasibility is being reviewed once again by the Alaska Power Authority as part of the Bristol Bay Regional Power Plan. As stated in the Land Protection Plan, lands immediately involved are outside park/preserve boundaries.

The proposed 1.4 MW Tazimina River Project is designed to meet the power needs of the Iliamna/Lake Clark region communities. Studies have looked at interconnecting communities in closest proximity to the project. We have applied to the Federal Energy Regulatory Commission (FERC) for a feasibility study permit for the Tazimina Project. The NPS has been provided with a copy of this application. As noted above, transmission line corridors will not be crossing NPS land.

Page 23 - The last sentence in #5 should be dropped (see comments on page 21 above).

Page 24, paragraph 1 - In Item 6, the NPS discusses proposed hydroelectric development in the Tazimina and Newhalen rivers, but, unlike discussion in the other items, the LPP does not identify NPS concerns regarding these proposals. The Newhalen project was determined by the Alaska Power Authority to be economically unfeasible in 1985.

Page 27, Item 1a - NPS specifically references the Alaska Anadromous Fish Act (AS 16.05.870) as existing State law protecting public interests within the park. We recommend that the LPP also specifically reference the State water quality standards (18 AAC 70) as another body of State law that protects public interests within the park.

Page 30, Item 4 - Some of the land classification names quoted in this section are not correct. Correct classification designations can be found in 11 AAC 55, and include "Resource Management," "Public Recreation," and "Wildlife Habitat." Another significant State land classification of interest to NPS might be "Water Resources."

Page 37, Recommendations - To better identify lands of NPS interest, we recommend that the map of Land Protection Priorities (page 39) be presented on a more detailed base that identifies place and waterbody names.

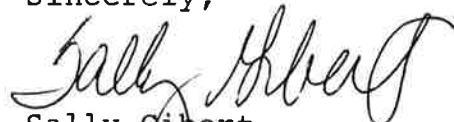
Page 48 - The State agreed through the Bristol Bay cooperative planning process to close navigable waters in Lake Clark NPPr to mining. However, these closures were not included in the mineral closing orders for the Bristol Bay Area Plan. The State does not intend to make these closures until the Bristol Bay Regional Management Plan is approved by the Secretary of the Interior. This should be acknowledged in the LPP.

March 6, 1986

The NPS is considering several changes to the LPPs in the nine revised draft general management plans which address navigable rivers, 17(b) easements, RS 2477 ROWs, and tide and submerged lands. We request that the NPS planning staff currently working on these plans be consulted to ensure that the various changes being made in other LPPs are made in the Lake Clark LPP.

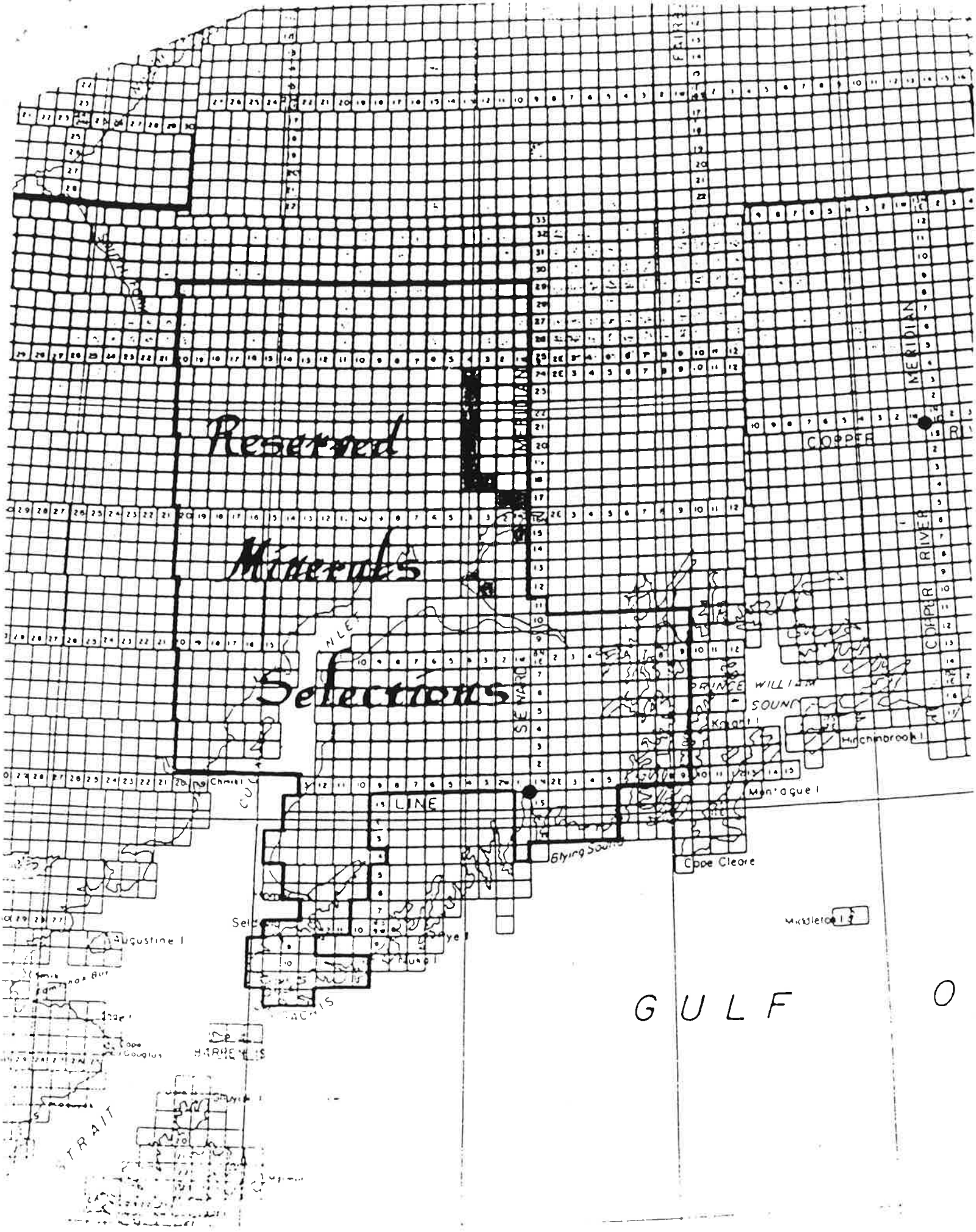
On behalf of the State of Alaska, thank you for the opportunity to review this draft LPP for the Lake Clark NPPr. If we can be of any assistance in clarifying these comments, please contact this office. The State looks forward to review of the final land protection plan.

Sincerely,



Sally Gibert
State CSU Coordinator

cc: Senator Rick Halford, CACFA, Fairbanks
Boyd Evison, National Park Service, Anchorage
Attorney General Brown, Law, Juneau
Commissioner Collinsworth, DFG, Juneau
Commissioner Knapp, DOTPF, Juneau
Commissioner Lounsbury, DCED, Juneau
Commissioner Notti, DCRA, Juneau
Major General Pagano, DMVA, Anchorage
Commissioner Robison, Labor, Juneau
Commissioner Ross, DEC, Juneau
Commissioner Sundberg, DPS, Juneau
Commissioner Wunnicke, DNR, Juneau
John Katz, Office of the Governor, Washington, D.C.
Janie Leask, Alaska Federation of Natives, Anchorage
Molly McCammon, Office of the Governor, Juneau



Reserved

Minerals

Selections

MERIDIAN

SEWARD

MERIDIAN

COPPER RIVER

COPPER

N. L. E.

LINE

GULF

0

Augustine I

Set

Blyng Sound

Cape Cleare

Middleton I

PRINCE WILLIAM SOUND

Hutchinson I

Man'aque I

Cape Douglas

HARRELLS

TRAIT

STATUS OF PUBLIC LAND AND MINERAL RIGHTS

HIP

FOR ORDERS CONCERNING DISPOSITION OF LANDS, UNCLASSIFIED LANDS, AFTER 1909, MISCELLANEOUS INFORMATION

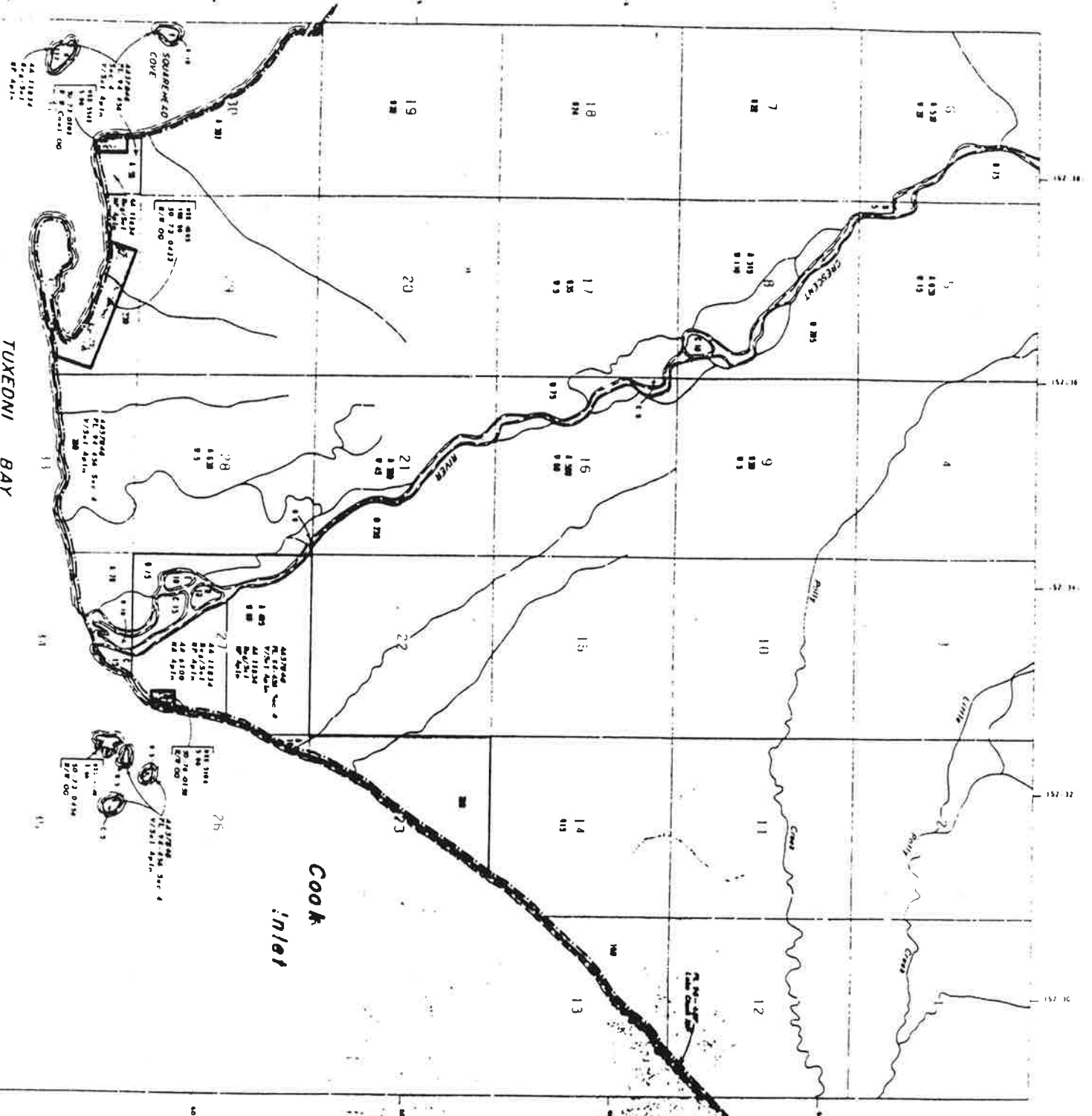


Table with multiple columns and rows, containing data related to land parcels and their status. The table is partially obscured by a large blacked-out area.