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September 14, 1988

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

Dear Mr. *Boyd* Evison:

The State of Alaska has reviewed the National Park Service (NPS) draft Alsek River Management Plan for the Glacier Bay National Park and Preserve. This letter is submitted on behalf of state agencies and represents a consolidation of state concerns and comments.

Based on information in the plan, the state believes that the management proposals appear to be reasonable to protect the growing recreational interest in the Alsek River. There are, however, some major legal considerations that need attention regarding 1) the role of the state as manager of the river bed and exposed gravel bars and 2) inappropriate use of the permitting process in lieu of regulations.

State Management of the Alsek River

The role of the State of Alaska as the owner and manager of the beds of navigable waters and the watercolumn needs to be addressed consistent with the following language from page 71 of the September 1984 Glacier Bay General Management Plan (GMP):

The Submerged Lands Act of 1953 and the Alaska Statehood Act of 1958 provide for state ownership of the beds of navigable waters to the "ordinary high water mark." Determination of what waters are navigable is an ongoing process in Alaska at both the administrative and judicial levels. If the Alsek River is determined navigable, the National Park Service will work cooperatively with the state to perpetuate the natural ecosystem and provide for public use.

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While an official determination on the navigability of the Alsek River has not been made, the state is confident in its assertion that the Alsek River is navigable, and thus subject to state management authorities.

In this light, it is important that the NPS work cooperatively with the state to develop a coordinated management approach. The state is currently to develop policies regarding management of navigable rivers within conservation system units. This process has just begun. Therefore, at this time the state does not have any comments on the proposed interim measures for the river. Ultimately, such decisions need to be developed cooperatively, most likely through a cooperative management agreement between the state and the NPS. The state reserves the right to seek a reconsideration of the proposed management objectives in the future.

Regulating Uses by Permit

The discussion on pages 22 and 26 reference a Glacier Bay General Management Plan policy that "no motorized vessels will be permitted above Gateway Knob." The Alsek Plan then says:

Regulations which are required to implement this closure for private parties have not been promulgated. The policy has been implemented for commercial river guides and is an operating requirement in their permits.

The state does not believe that NPS has the authority to implement this policy through permit stipulations. While the state is currently unaware of any problems presented by this policy, its implementation via commercial use permits is inconsistent with Section 1110(a) of ANILCA. This section specifically states that use of motorboats is "subject to reasonable regulation" and "shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental." The state can find no basis in ANILCA for exempting commercial permit holders from the requirement that prohibition of motorized access must be implemented through regulations.

Furthermore, as noted in the previous discussion of state management, the state has certain authorities over the management and use of the watercolumn, regardless of whether the waterbody is navigable. Hence, intent to restrict motorboats use should also be coordinated with the state.

In conclusion, without appropriate regulatory authority, use of motorized boats should not be prohibited through commercial use permits.

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Remaining Specific Comments

The Alsek Plan (pages 22 and 26) indicates that "The Park is not aware of any use of motorized vessels on the Alsek River above Gateway Knob since passage of ANILCA on December 2, 1980". To the best of our knowledge this statement is in error. Arnie Israelson (prior owner) and Gary Gray (current owner) operate an outfitter guide service in this area. This outfitter has a cabin and airstrip approximately two miles downstream of Gateway Knob and has, under NPS permit, motored clients upstream approximately three miles above Gateway Knob to the glacier for sightseeing and photography. Historically, this outfitter has also run motorized vessels up to the border. We request that this use be acknowledged in the final plan.

The state has received maps from the prospectus of the proposed Canadian "Windy Craggy" mine project, as provided by the mine developer, Geddes Resources Ltd., (copies enclosed). These maps show the potential road access routes in relation to this area. We recommend the U. S. Government commence discussions with the Canadian Government to seek adequate protection of the water quality, subsistence, and recreational values of this trans-boundary recreational river. We also recommend that the NPS seek to establish an informal dialogue with the mine developers on this subject.

Finally, the map on page 2 does not show the boundary of the preserve or wilderness areas of the Glacier Bay National Park and Preserve. We recommend the final plan include a map which portrays these areas and boundaries.

On behalf of the State of Alaska, thank you for the opportunity to review this draft EIS. If we can be of assistance in clarifying the state's comments, please do not hesitate to call this office.

Sincerely,

Robert L. Grogan
Director


By Sally Gibert
State CSU Coordinator

cc: Commissioner Judith M. Brady, DNR
Commissioner Don Collinsworth, DFG
Commissioner Dennis Kelso, DEC
Commissioner Mark Hickey, DOT/PF
Rod Swope, Office of the Governor

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