

**OFFICE OF THE GOVERNOR**

DIVISION OF GOVERNMENTAL COORDINATION

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February 14, 1991

Mr. Russell C. Alderson  
Superintendent  
Klondike Gold Rush National  
Historical Park  
P.O. Box 517  
Skagway, AK 99840

Dear Mr. Alderson:

The State of Alaska has reviewed the draft Land Protection Plan for the Klondike Gold Rush National Historical Park. This letter contains the consolidated comments of the State's resource agencies.

**Navigable Waters**

The Skagway, Nourse, and Taiya Rivers traverse the park. A review of the State's selection file for this area (GS 837) reveal that portions of the Taiya River have been determined navigable by the Bureau of Land Management. Under the Alaska Constitution, the beds of navigable waters are held and managed by the State in trust for the use of the people. Fee simple acquisition by exchange, therefore, must exclude the beds of navigable waters. Before the State can negotiate the exchange of the subject lands, the navigability issues must be addressed and management difficulties resolved.

**Valid Existing Rights**

Pursuant to Public Law 94-323, "All lands acquired pursuant to this Act shall be taken by the Secretary subject to valid existing rights granted by the United States for railroad, telephone, telegraph and pipeline purposes." Alaska Statute 38.05.070 entitled "Valid Existing Rights" says that conveyances made by the State are subject to valid existing rights, including but not limited to contracts, permits, leases, rights-of-way and easements. Fee simple acquisition must be made subject to these interests.

**Mineral Entry**

The draft Land Protection Plan states that one of the primary land protection issues within the park is the protection of significant resources relating to "gold rush themes", (page 3, paragraph 6).

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Then page 4, paragraph 5, states that protection is also afforded the "natural resources" of the park to the "greatest degree".

It is not possible to determine from such statements found in the plan whether mining is allowed within the park, or not allowed, because the natural resources are being protected. The original legislation did not close the park to mining and the Memorandum of Understanding in Appendix C does not specify. A review of the State status plat reveals that the State land within the park is open to mineral entry (i.e. no mineral closing order shown). Furthermore, the State has no intention of closing these lands to mineral entry at this time, which should be clarified in the plan. It is not clear from reading the Land Protection Plan if the minerals are being managed under the MOU, or if the park's federal lands are closed to mining. The State requests that all park land remain open to mineral entry.

#### **Boundaries**

The configuration of Tract 103-02 as depicted by the National Park Service in Appendix D of the plan differs from the boundary of the park as shown on State status plats (see attached plat). Federal Master title plats also agree with the boundary shown on the State status plats. Nothing in the plan describes the boundary of the park or how the boundary was established which would allow the reader to verify this information.

#### **Miscellaneous**

A review of the Department of Natural Resources' records reveals that the Memorandum of Understanding in Appendix C to the Land Protection Plan is the current MOU being used by the Department. However, since it is not signed or dated it is impossible to determine when the fifteen year agreement expires. Please specify the calendar term of the MOU.

The last sentence of the primary text on page 7 that extends to page 8 does not make sense and appears to have a word or words omitted from it.

Paragraph 5, page 9 states: "As part of the Alaska Statehood Act the city of Skagway is authorized to select state lands adjacent to the city for various purposes." This statement is in error and should be written as follows:

The City of Skagway is authorized to select lands from the State pursuant to the Municipal Entitlement Act, A.S. 29.65, as amended.

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**Summary**

From the perspective of evaluating a land exchange between the State and the National Park Service, the Land Protection Plan lacks adequate specific information regarding the park's boundary, mineral entry status, navigability, and third party interest issues. Therefore the following tasks must be accomplished before an exchange with the State can be fully considered and/or consummated: (The Land Protection Plan may or may not be the most appropriate vehicle for providing this information.)

1. Determine the correct boundary of the park;
2. Determine the location of navigable waters that are under State jurisdiction. Work with the State on a dual management plan to ensure that State interests in these waters are recognized and protected;
3. Insure that all third party interests are identified and develop a plan that recognizes and protects the rights of these entities;
4. Determine the minerals management policy on federal lands within the park and demonstrate that adequate access is provided to all areas open to mineral entry, including State lands.

Finally, unless and until a land exchange agreement is negotiated, the State's policy will be to retain State land in State ownership.

Thank you for the opportunity to comment on the draft Klondike Land Protection Plan. If you have any questions, please feel free to contact me at 465-3562, or Sally Gibert at 561-6133.

Sincerely,



Paul C. Rusanowski, PhD.  
Director

Attachment: State status plat

cc: Boyd Evison, NPS, Regional Director  
Larry Wright, NPS, Environmental Compliance  
Harold Heinze, Commissioner, DNR  
John Sandor, Commissioner, DEC  
Frank Turpin, Commissioner, DOT/PF  
Carl Rosier, Commissioner, DFG

