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January 29, 1996

Mr. Jack Mosby
National Park Service
2525 Gambell Street, Room 104
Anchorage, Alaska 99503

Dear Mr. Mosby:

The State of Alaska has reviewed the internal draft of the General Management Plan (GMP) for the Klondike Gold Rush National Historical Park. This letter represents the consolidated comments of the State's resource agencies.

We appreciate the ability to provide comments at the internal draft stage of this document. This review gives state agencies the opportunity to address subject areas where the GMP should be revised and/or expanded prior to release as a public review draft. Discussion points that need additional attention follow.

City of Skagway Land Selections

This GMP has been on the drawing board for several years and some recent pivotal developments concerning land status are not recognized. In particular, there is no description of the 1,700 acres of state land within the boundaries of the park that the City of Skagway wishes to receive under its municipal entitlement. The city is embarking on a comprehensive statement and justification for conveyance of roughly 200 acres of state land on the Dyea Flats in response to the recent denial of conveyance by the Alaska Department of Natural Resources (DNR). If DNR accepts the city's justification, due July 1996, then ownership of the full 1,700 acres may be conveyed to the city. Given Skagway's eventual land holdings in the park, we strongly recommend that the GMP not be released until after this summer to allow the GMP's management recommendations to reflect accurate land status.

In the meantime, the plan now states that the Dyea Flats would be used for a "variety of activities" (page 3.21, line 5). Given the popularity of the Flats and local interest in the details of management of this area, such a broad statement should be clarified if it remains in the plan. Of

course this may become a moot issue if the city ends up owning Dyea Flats, which again argues for delaying release of the plan.

Memorandum of Understanding

Page 1.6, Lands, lines 21-34; and page 2.29, MOU, lines 36-47. These two sections have different descriptions of what state lands are subject to the MOU between NPS and DNR. These conflicting statements are indicative of the confusion that has come out of the MOU regarding the extent of management authority on state land that has been granted to the NPS. It would be valuable to agree on a more precise description of the areas affected by the MOU.

In 1994, DNR decided to pursue an amendment to the MOU to retract the authority which allows NPS to enforce 36 CFR regulations of state lands within the boundaries of the park. This issue was addressed in August 4, 1994 and October 7, 1994 correspondence from DNR (attached). Follow-up conversations between NPS and DNR have recognized that the outcome of the municipal selection issue may make this amendment unnecessary. Nonetheless, the GMP should acknowledge that DNR is still seeking to amend the MOU.

We disagree with the GMP's statement (page 1.6, lines 26-30) that NPS acquisition of state land is necessary for long term protection of historical and natural resources. We recognize the NPS's interest in acquisition, but in the absence of mutually attractive land exchange proposals, such acquisition is unlikely. This situation should be acknowledged in the GMP. In the meantime, the State is also interested in the long-term protection of cultural resources and recreation and, in addition to the mechanisms in the MOU, has authorities to restrict activities occurring on state lands if necessary for resource protection. For example, DFG will be restricting vehicle access across the anadromous slough in Dyea Flats in 1996 (page 3.21, first paragraph). If the Service believes resources need protection on either state or federal land in the park unit, we urge the Service to approach the State and City of Skagway to cooperatively design and conduct applicable studies to document specific problems. DFG desires to be actively involved in such studies where resources and access to those resources are involved.

Consistency with Previous GMPs

As you will recall, having worked on the previous round of GMPs for nine other ANILCA park units, there are a number of "generic" issues which were identified in the 1980s where resolution was achieved through boilerplate language. We encourage you to compare the Klondike GMP with these previous GMP's to insure that the appropriate sections are carried in this document. Examples include the planning flow chart, and statements pertaining to fish and wildlife management, navigable waterways, water rights, and various ANILCA access provisions. In addition, you should refer to and follow ANILCA Section 1301 which lays out the requirements for the development of GMPs for Alaska park units. In instances where the NPS believes that selected ANILCA provisions do not apply (since this is a pre-ANILCA park unit), the GMP should note these exceptions and cite appropriate statutes or regulations.

Additional comments

- Page 3.3, lines 36-37, incorrectly state that “trapping and hunting are not permitted” in the park. We request this statement be deleted since trapping and hunting on state land are regulated by the Alaska Board of Game. In addition, the GMP statement conflicts with the MOU which states that NPS agrees to “allow hunting and trapping pursuant to State law during established seasons on State owned lands within the Park”.
- The general language addressing fish and wildlife management on this page also appears to have been slightly modified so as to give the impression that the Service has more oversight of state fish and wildlife management authorities than may have been intended. We encourage editing for consistency with the “generic” language that appears in most other GMPs (e.g. Aniakchak, pp 15-16) and the Master Memorandum of Understanding between the NPS and the Alaska Department of Fish and Game.
- The GMP correctly states on page 3.4 that no tidelands or submerged lands are contained within the park. Although the boundary of the park may indeed have been mapped showing waters within the exterior boundary, the Klondike park is limited by the same provisions as ANILCA-created units: Section 103(a) excludes lands below mean high water unless the state concurs with such, and Section 103(c) which limits the unit to only federal public lands within the boundaries.
- The Plan includes intent to limit group numbers, sizes, and activities based on a carrying-capacity analysis. On federal lands, the NPS is mandated by Sections 811 and 1110(a) of ANILCA to protect access for traditional activities. Before such access and traditional activities can be restricted under 43 CFR and 36 CFR criteria, a finding of resource damage is required. We request that any design and analysis of activities which may lead to restrictions on public activities be developed in close consultation with the State.
- In the discussion of carrying capacity on page 3.6, protection of resources from increasing public use can be accomplished through facility improvement, public education or regulation. The State encourages the NPS to note in the GMP that regulatory actions will only be taken after facility improvements and public education have been undertaken or shown to be impractical.
- Page 2.1, Land Ownership, line 30: This should be changed to read that the Chilkoot Trail unit is largely surrounded by state land, not land administered by BLM. Only a small portion near the US/Canadian border is administered by BLM.
- Page 5.2 Commercial Service Plan - Mandates and Constraints. We suggest reference to ANILCA 1307 and proposed regulations at 36 CFR Part 13 be added to this list of applicable laws.

- The definition of “traditional” contained in Appendix G is inconsistent with Congressional intent. Congress protected traditional activities, described as those activities “generally occurring” in the area prior to establishment of the unit. There is no statutory requirement that such activities be “cultural” or proven to occur over several decades to be regarded as “traditional”.
- Appendix H, General Access Provisions. There is no “ANILCA Section 101(E)” as cited under off-road-vehicles.
- Page H.2, Summary. Include ANILCA Section 1101(a) “Special Access” addressing access for traditional activities. Sections 1(c)(d) of Public Law 94-323 should also be reflected. These sections are significant because of the provisions of ANILCA Title XI which recognizes existing applicable law in permitting rights of way or utility corridors with Alaska park units. A separate decision process applies in those instances where the federal agency has an applicable law to issue a right of way permit. Of equal importance is the recognition of all valid existing rights granted for railroad, telephone, telegraph, and pipeline purposes on all lands acquired by the Secretary for inclusion in the park.
- Appendix J, Wild and Scenic River Studies. The State is not aware of any authority granted to the NPS to conduct wild and scenic river studies outside the boundary of the park. Also, in light of ANILCA Section 606(a) which clarifies that non-federal lands in Alaska are not included as part of a W&SR corridor, characterization of state and private lands as a “threat” is inappropriate.

Thank you for your consideration of these comments. If you have questions or desire further information, please call me at 269-7477.

Sincerely,



Sally Gibert
State CSU Coordinator

Attachments

cc: Clay Alderson, Superintendent, Klondike Gold Rush NHP

FOR YOUR INFORMATION

from Sally Gibert

cc: Diane Mayer, DGC-Jun
Tina Cunning, DFG-Anch
Terry Haynes, DFG-Fbx
Patty Bielawski, DNR-Anch
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