



THE STATE  
of **ALASKA**  
GOVERNOR MICHAEL J. DUNLEAVY

## ANILCA Implementation Program

Office of Project Management and Permitting

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May 24, 2019

Mark Sturm, Superintendent  
Katmai National Park and Preserve  
P.O. Box 7  
King Salmon, AK 99613

Dear Mr. Sturm:

The State of Alaska reviewed the Olga Lake Right-of-Way Certificate of Access (RWCA) Environmental Assessment (EA). The following comments represent the consolidated views of state resource agencies.

The State supports the proposed action to issue a RWCA that authorizes the construction and use of an off-road vehicle (ORV) trail from Olga Lake to an inholding at Headwater Creek. Section 1110(b) of the Alaska National Interest Lands Conservation Act (ANILCA) grants state and private inholdings within conservation system units, including designated wilderness, "...such rights as may be necessary to assure adequate and feasible access for economic and other purposes."

Department of Interior implementing regulations at 43 CFR 36.10 define "adequate and feasible access" and identify the decision criteria that the agency must follow to ensure the route and method of access both meet the use and development needs associated with the inholding and protect surrounding park resources.

The amount of land affected by the proposed action is negligible in relation to the overall amount of federal public land in the park and preserve and it appears the RWCA is well routed; avoiding wetlands and stream crossings. The project does not involve any stream crossings; therefore, a Fish Habitat Permit from the Alaska Department of Fish and Game is not required.

While the Service has discretionary authority to evaluate the proposal and add stipulations to the RWCA, adequate and feasible access to an inholding cannot be denied or effectively precluded by overly restrictive conditions or modifications. While the majority of the proposed stipulations appear reasonable, we question the basis for the limitation on number of annual motorized trips on the trail. If the intent is to transport guests during the summer and early fall season (e.g., June through mid-September), 200 round trips would limit the inholder to approximately one round trip per day. We request the Service revise this stipulation to allow for increased use, as needed, at the discretion of the Superintendent.

The "No Action" alternative (Alternative 1) in the EA needs to clearly state that inholder access under ANILCA Section 1110(b) is a statutory right and cannot be denied. *Table 1. Summary of*

*Alternatives* indicates that under Alternative 1, ANILCA would not be implemented and access would be restricted to currently authorized methods. The EA documents the alternatives considered but dismissed from further analysis on the basis that they were not “adequate and feasible;” therefore, the proposed action appears to be the only viable alternative for the inholder. The final decision document should therefore clarify that while the “no action” alternative is required under the National Environmental Policy Act, not issuing a RWCA would be inconsistent with ANILCA and the EA’s purpose and need.

Thank you for this opportunity to comment. Please contact me at 907-269-7529 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Magee". The signature is fluid and cursive, with the first letter of the last name being a large, prominent 'M'.

Susan Magee  
ANILCA Program Coordinator