



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## ANILCA Implementation Program

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Don Striker, Acting Alaska Regional Director  
National Park Service  
240 West 5<sup>th</sup> Avenue  
Anchorage, AK 99501

Dear Mr. Striker:

The State of Alaska reviewed the National Park Service proposed compendia for 2020. The following comments represent the consolidated views of state resource agencies.

We appreciate the Alaska Region's continued commitment to meeting with the State to discuss issues that Superintendents anticipate warrant restrictions in the upcoming year's park compendiums, as well as providing the public with an opportunity to review proposed changes to each of the park compendiums. We heard at the December 2019 meeting that changes to the process were in the works, including a more hands-off approach by the Alaska Regional Office. We are concerned as the current process was cooperatively developed by the NPS and the State almost twenty years ago and includes an annual public review and a commitment to work collaboratively with the State year round to ensure the unique provisions in the Alaska National Interest Lands Conservation Act (ANILCA) that require a different management framework in Alaska's park units are appropriately applied. Attached is the Alaska Region's initial commitment from former Regional Director Rod Arnberger, and a collaborative work product that documents those early efforts to ensure park compendiums are consistent with ANILCA.

We have several overarching concerns with this year's proposed compendiums. In general, we find the compendia lack sufficient analysis and rationale for the proposed closures and restrictions. We are also concerned some of the proposed closures and restrictions are not within the Superintendents' discretionary authority and/or are inconsistent with 43 CFR 36.11. It is also apparent from a few conversations we have had that not all Superintendents are aware of the original intent of the compendium process that is unique to Alaska. Additionally, as a result of the 2015 changes to the 36 CFR Part 13 closure process, park compendiums are now being used by the Service as the primary means for implementing closures and restrictions; however, other regulatory requirements still apply (e.g., 43 CFR 36), and 36 CFR 13.50 identifies criteria for when rulemaking is required, which should be taken into consideration and clearly documented in the entries. Therefore, we think this is a good time to revisit the earlier commitments and again work collaboratively with the Service to ensure the compendiums and the annual review process provide the public with a meaningful opportunity to understand and comment on proposed restrictions and closures that affect them, as intended in ANILCA. We look forward to working with the Service on accomplishing that goal as well as addressing the following comments on this year's compendiums.

## **E-bike Entry for All Park Units**

Each Park unit incorporates a new entry adopted initially in the fall of 2019 as an Addendum to implement Secretarial Order (SO) 3376 and related National Park Service Policy Memorandum (PM) 19-01 to allow specific classes of e-bikes (class 1-3) “where other types of bicycles are allowed” and not allow e-bikes “where other types of bicycles are prohibited.” The SO recognizes the need to simplify and unify the regulation of electric bicycles and to reduce the regulatory burden on users. The overarching purpose of the SO is to “increase recreational opportunities for all Americans, especially those with physical limitations...” Unfortunately, by relying primarily on the national regulations applicable to traditional bicycles instead of the allowance for bicycles in ANILCA, the Alaska Region’s compendium entry creates more regulatory confusion and results in little to no opportunity to use e-bikes in Alaska park units, where there are few designated trails and bicycles are currently allowed in all park areas not previously closed by regulation.

We recognize e-bikes are not a protected method of access under Section 1110(a) of ANILCA; however, to properly implement the SO and PM in Alaska and *allow e-bikes where traditional bikes are allowed*, the Alaska Region needs to recognize that, as with snowmachines and motorboats, traditional bicycles, are allowed in all Alaska park units, including designated wilderness, in accordance with ANILCA Section 1110(a). Therefore, in accordance with the SO, e-bikes are allowed in all areas of Alaska park units that have not been closed or restricted by regulation pursuant to Alaska-specific regulations at 43 CFR 36.11. By ignoring the statutory allowances for bicycles in Alaska and instead relying on the Service’s national regulations as the basis for implementing the SO, the Alaska Region inappropriately restricts e-bikes beyond the intent of the SO. While the PM (bottom of page 2) includes designated wilderness as an *example* of where bicycles are not allowed, the Alaska Region is aware that the national prohibition on bicycles in designated wilderness does not apply in Alaska. This and other specific changes in the Alaska Region’s implementing addendum are discussed in more detail below.

Improper addition of 36 CFR 4.30(h)(1) language to compendia. The Alaska Region added language to the PM’s implementing direction inappropriately applying 36 CFR 4.30(h)(1) prohibitions (without citation) to the second paragraph of the compendia for e-bikes in Alaska. (i.e., 36 CFR 4.30(h)(1) prohibits bicycle riding outside park roads and parking areas, except on administrative roads and trails that have been authorized for bicycle use). Neither SO 3376 nor the NPS Policy Memorandum directs Parks to apply 4.30(h)(1) to e-bikes. In fact, SO 3376 and PM 19-01 specifically omit 4.30(h)(1). We request the language in the entry limiting e-bikes to administrative roads, parking areas and authorized trails be removed.

Improper inclusion of 36 CFR 4.30(h)(2). In Alaska, 36 CFR 4.30 is superseded by 43 CFR 36.11(e), which allows the use of nonmotorized surface transportation in Alaska park units. All Alaska park compendiums recognize this. For example, the Glacier Bay National Park and Preserve, states:

***4.30(a) Routes designated as open to bicycles***  
*Superseded by 13.1126, 43 CFR 36.11(e).*

***4.30(d)(1) Wilderness closed to bicycle use***  
*Superseded by 43 CFR 36.11(e).*

The PM requires Superintendents to list the specific Sections of 36 CFR part 4 “that apply” to use of traditional bicycles in their Park. The Alaska Region lists the prohibition on bicycle use in designated wilderness pursuant to 36 CFR 4.30(h)(2), which does not apply to traditional bikes in Alaska. We request that the national prohibition that applies to designated wilderness outside Alaska be removed.

Improperly not treating e-bikes as traditional bikes in Alaska.

The compendia justification on e-bikes acknowledges that bicycles are an acceptable mode of nonmotorized surface transportation in Alaska park units, including designated wilderness, under ANILCA 1110(a) by stating “It has been the position of the Department of the Interior that these methods include the use of traditional bicycles.” However, the compendia then departs from the direction given in Section 4 of the SO “ ... b) E-bikes shall be allowed where other types of bicycles are allowed; and c) E-bikes shall not be allowed where other types of bicycles are prohibited” by intentionally implying that e-bikes cannot be allowed where bicycles are allowed because they are motorized. Such logic ignores the plain reading of the SO and specific direction that class 1-3 e-bikes are to be expressly exempted from the definition of motor vehicles. As currently proposed, the Alaska Region is striving to both treat e-bikes as motor vehicles and to decrease access to federally owned land by bike riders, in direct conflict with the SO.

As currently proposed with the deviations from the SO and PM directives, the Service does not allow the use of e-bikes along beaches or over snow, i.e., trail less travel, or on designated wilderness trails where traditional bicycles are allowed. Traditional bikes with fat tires frequently travel in trail less conditions, especially in the spring over crust snow conditions or along the Cook Inlet beaches of Lake Clark National Park.

Resulting closures to general hunting access and to subsistence hunting opportunities. The changes the Alaska Region incorporates into the compendia creates a unique situation where e-bikes would not be allowed in areas where traditional bikes, motor vehicles, or OHVs are allowed. By closing trails in designated wilderness to e-bike use, the Alaska Region is also closing general hunting access opportunities from the Nabesna Road in the vicinity of Sheep and Grizzly Lake in Wrangell St. Elias National Park and Preserve designated wilderness. In Wrangell St. Elias National Park designated wilderness, south of the Nabesna road, subsistence use of bikes and OHVs are allowed in designated Park wilderness, whereas e-bikes, according to the proposed language in the compendium, would not. The Alaska Region compendium also closes subsistence hunting opportunities by e-bike along the Kotsina River Road in designated Park wilderness, even though this is allowed by OHVs and traditional bikes. This is inconsistent with the intent in the SO.

We request the compendia requirements on e-bikes be rewritten in accordance with SO 3376 and PM 19-01 and the regulatory requirements that apply to bicycles in Alaska. Specifically, we request the underlined changes:

43 CFR 36, Access Regulations~~36 CFR 13.50, Closures and restrictions~~, National Park System Units in Alaska.

The NPS seeks public comment on the following entry that implements SO 3376 and PM 19-01 allowing the use of electric bicycles (e-bikes) in National Park System units in Alaska. The proposal for the 2020 compendium is:

The term “e-bike” means a two- or three-wheeled cycle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.). When an e-bike meets these conditions, it is considered a traditional bicycle.

E-bikes are allowed where traditional bikes are allowed pursuant to in accordance with the provisions of 36 CFR Part 4. E-bikes are allowed on park roads, parking areas, and trails that are open to traditional bicycles. ANILCA Section 1110(a), as well any park specific provisions found in 36 CFR Part 13, Subparts H through W.

E-bikes are prohibited where traditional bicycles are prohibited as identified in Alaska Park Specific regulations found in 36 CFR 13, Subparts H through W. under 36 CFR 4.30. Except where use of motor vehicles by the public is allowed, using the electric motor to move an e-bike without pedaling is prohibited.

A person operating an e-bike is subject to the following sections of 36 CFR part 4 that apply to the use of traditional bicycles: sections 4.12, 4.13, 4.20, 4.21, 4.22, 4.23, and 4.30(h)(2)-(5). any park specific bike restrictions found in 36 CFR Part 13, Subparts H through W.

Reasons for this proposed addition is as follows:

On August 30, 2019, the National Park Service published an e-bike policy. A stated goal of the policy is to address e-bikes so that the NPS can exercise clear management authority over them within the National Park System. The policy provides that e-bikes are to be allowed in areas where traditional bicycles are allowed. Under national NPS regulations, traditional bicycles are allowed only on roads, parking areas, and designated trails. 36 CFR 4.30(h).

Under Federal law specific to conservation system units in Alaska, which include national parks, “nonmotorized surface transportation methods for traditional activities ... and for travel to and from villages and homesites” are allowed notwithstanding any other provision of law. 16 USC 3170(a). It has been the position of the Department of the Interior that these methods include the use of traditional bicycles. E-bikes do not fall under this allowance because they have an electric motor and therefore are not “nonmotorized.” However, in accordance with the SO, e-bikes are allowed where traditional bikes are allowed; and prohibited where they are prohibited; therefore, e-bikes will be allowed where traditional bikes are allowed by ANILCA, except where they have been restricted or closed pursuant to 43 CFR 36.

~~Although ANILCA allows traditional bicycles anywhere within conservation system units in Alaska, certain Alaska parks have limited bicycle use by regulation, in accordance with ANILCA. These regulations can be found in 36 CFR Part 13, Subparts H through W. NPS Region 11 (Alaska) proposes to allow e-bikes only on roads, parking areas, and designated trails where traditional bicycles are allowed. This will ensure that the NPS manages e-bikes in Alaska in the same way it manages e-bikes outside of Alaska. The nationwide policy intended to achieve a consistent management framework for e-bikes within the National Park System. In addition, the NPS has no data on the level of bicycle use on more than 20 million acres in Alaska that are off-trail and not in designated wilderness. This would make it very difficult to anticipate the~~

~~impacts of allowing e-bikes in those same, vast locations—impacts that could include concerns about public safety associated with remote, cross-country travel, protection of resources in sensitive biomes such as tundra, and management objectives such as preserving wilderness character in eligible wilderness.~~

### **Hunting Dog Restrictions under 36 CFR 2.15**

It has come to our attention that individuals have been cited for not having their hunting dogs on leash in Preserve units of Alaska. While having dogs on leash in developed or frontcountry areas of the park is appropriate, applying that requirement to remote, backcountry, or wilderness areas open to hunting is inconsistent with the mandated allowance in ANILCA Section 1313 for hunting in National Preserves in Alaska, nor does it align with State hunting regulations. 36 CFR 2.15(b) allows dogs in support of hunting activities in accordance with applicable Federal and State laws and conditions established by the Superintendent. Denali National Park and Preserve, Glacier Bay National Preserve, Yukon Charley Preserve, and Klondike Gold Rush appear to be the only units that allow hunters to take or train their dogs in the field. We request the following exceptions that apply to Denali Park and Preserve, be included in the following park units, Bering Land Bridge Preserve, Gates of the Arctic Park and Preserve, Katmai Park and Preserve, Aniakchak National Monument and Preserve, Alagnak Wild River, Cape Krusenstern National Monument, Kobuk Valley Park, Noatak Preserve, and Wrangell-St. Elias Park and Preserve:

#### ***2.15(a)(1) Areas designated as closed to pets***

*No designated areas. Pets must be leashed or physically restrained at all times.*

This prohibition does not apply to—

- dogs used for legal hunting in the park and preserve additions;
- emergency search and rescue missions; or
- qualified service animals accompanying persons with disabilities per the ADA.

### **Bering Land Bridge National Preserve**

See comments on e-bikes

### **Denali National Park and Preserve**

#### **2.15(a)(1) Areas designated as closed to pets**

***For the Frontcountry Developed Area, see 13.978. Pets are prohibited in all other areas of the park. This prohibition does not apply to— • dogs used for legal hunting in the park and preserve additions; • emergency search and rescue missions; • qualified service animals accompanying persons with disabilities per the ADA; Or working dogs used by the NPS for wildlife management. In addition to the above exceptions, working dogs are allowed from October 1 through April 14. Working dogs are in a harness and pull a person or a sled, as in skijoring, dogsledding, or freight hauling. When not actively pulling a load, dogs must be on a leash no longer than six feet or otherwise physically confined per 2.15(a)(2).***

We realize the Service is proposing an allowance for the administrative use of working dogs for wildlife management; however, working dogs are not “pets” and it is unnecessary to include administrative uses in the compendium. Therefore, we question the need for this entry and the inclusion under the national

pet regulation at 36 CFR 2.15(a)(1). Dogs are a form of non-motorized surface transportation, which are allowed under ANILCA Section 1110(a). The use of dogs for traditional activities by the public is allowed, unless restricted under 43 CFR 36.

In addition, without explanation, the entry removes the dates associated with the limited prohibition on pets in all other areas of the park. We request the seasonal dates be reinstated in this year's compendium. If there is a valid reason for this change, we request an opportunity to discuss the issue and, unless there is concern that requires immediate action, postpone proposing the restriction until next year's compendium so that the public can be made aware of and have an opportunity to comment on the proposed change.

**2.10(d) Food storage: designated areas and methods**  
**2. Frontcountry Developed Area (FDA)**

*The NPS proposes a change to this section to bring this regulation into harmony with how food storage in the FDA is managed. There is no authorized camping in the FDA outside of campgrounds, and we direct non-campers caching food in the FDA (e.g., near the road or at Toklat) to use a BRC, food lockers, or buildings.*

We understand the Service is removing the 4<sup>th</sup> bullet in this Compendium entry because it does not apply in the FDA; however, it appears that visitors would need a Bear Resistant Container (BRC) to carry food in their backpack in developed areas including Toklat or near the road. It would be unreasonable to require all users to carry BRCs at all times even if no perishable food is being carried. We support recommending BRCs to day users, but request that the focus remain on prohibiting animal attractants with an education program. In areas where animal resistant food containers are recommended, the locations where the public can obtain containers from the Service free of charge should be noted. We request that the language in the compendia be revised as follows:

*Cached ~~Food~~ and beverages, food and beverage containers, garbage, harvested fish, and all other scented items must be stored in a bear resistant container (BRC) or secured—*

**Gates of the Arctic National Park and Preserve**

See comments on e-bikes

**Glacier Bay National Park and Preserve**

See comments on e-bikes

**Katmai National Park and Preserve (including Aniakchak National Monument and Preserve, and Alagnak Wild River)**

We have reached out to the Superintendent on the following entries and are looking forward to meeting with him next week to gain a better understanding of the specific issues that the Park is facing. The Superintendent has granted the State an extension for commenting on Park specific issues, therefore, we may revise or supplement these comments after that discussion.

### **36 CFR 13.1242 Brooks Camp Developed Area (BCDA) Closures and Restrictions**

*The Superintendent is given broad authority in 36 CFR 13.1242 to manage activities in the BCDA to protect resources as well as public health and safety. The NPS is proposing to take a more active role in managing critical areas within the BCDA including the Brooks River Corridor. The Brooks River Corridor is defined as the area within the BCDA upriver from the bridge to the outlet of Brooks Lake to include lands within 50 yards of the ordinary high water mark on each side of the Brooks River. Due to changing visitor use patterns, wildlife use patterns and other factors it has become necessary to manage public use on a more day to day basis. The NPS proposes using the existing authority granted to the Superintendent in 36 CFR 13.1242 to actively manage areas in the BCDA. This will be accomplished by implementing use restrictions, modifying closure dates, or prohibiting activities on an as-needed basis to match current wildlife, environmental and public use conditions.*

*The Superintendent may prohibit activities, impose restrictions or require permits within the Brooks Camp Developed Area. Information on closures and restrictions will be available in the park visitor center. Violating BCDA closures or restrictions is prohibited.*

The Superintendent's authority to close or restrict activities in the BCDA pursuant to 36 CFR 13.1242 is not as broad as indicated in this entry. The authority is limited to "protecting public health and safety or park resources" and does not supersede other regulatory requirements that apply to access restrictions, such as those in 43 CFR 36, or the procedures under 36 CFR 13.50, including the requirement to promulgate regulations under specific circumstances, and consult with the Alaska Department of Fish and Game (ADF&G) on fish and wildlife related restrictions. Further, the entry does not identify specific restrictions or closures but instead says the Superintendent has carte blanche authority to do whatever he believes is appropriate, including instituting a permit system, on a day-to-day basis. This is an inappropriate use of the compendium and could lead to confusion and unpredictable closures and restrictions in an area of Katmai that receives a significant amount of visitor use at great expense to both the general public and commercial operators alike.

We are also concerned that, as written, this day-to-day closure authority will impact sport fishing opportunities. Sport fishing was the original visitor attraction to the Brooks River, before the area became a bear viewing destination. The Brooks River provides world-class sport fishing opportunities and the State strongly supports continued uninhibited access to the Brooks River for fishing. ADF&G is responsible for the management of fisheries resources. Prior to implementing any restrictions on sport fishing on the river, the Service committed in the Master Memorandum of Understanding to consult with ADF&G and to utilize the Board of Fish process. The Service should also consider how best to maintain angler access to these areas while minimizing the potential for negative human-bear encounters by first addressing issues through concessionaires.

The park just last year completed construction of the elevated walkway as analyzed in the 2013 Brooks River Visitor Access Final Environmental Impact Statement, which was intended to help resolve human/bear conflicts in the BCDA. We recommend considering whether current conditions and on-the-ground issues warrant revisiting that plan to ensure that any proposed solutions are well vetted and all environmental and social impacts are taken into consideration.

### **13.1206 Wildlife distance conditions**

We continue to have concerns regarding the wildlife distance condition “continuing to occupy a position within 50 yards of a bear that is using a concentrate food source ... is prohibited,” which may be a contributing factor in the above BCDA issues. The compendia is remiss in not incorporating language addressing “stand your ground” behavior and making allowances for visitors who, after attempting to get out of a bear’s way and away from the concentrated food source and are in a situation where a bear continues to approach within 50 yards, to stop and assert themselves until the bear withdraws beyond 50 yards. Such provisions would allow and encourage visitors to 1) stand their ground even when a bear approaches within 50 yards, and 2) act assertively to discourage the bear from continuing this behavior. It will also avoid habituating bears to moving people. Without this exception, visitors may get the erroneous and possibly fatal idea that they need to continue to move away from curious and/or aggressive bears. People who walk or run away from curious or assertive young bears are rewarding bad behavior that could get such bears killed in this or subsequent situations.

### **43 CFR 36.11(d) Temporary closures to the use of motorboats**

With the completion of the elevated walkway in 2019 and related removal of the floating bridge across the Brooks River, the NPS implemented a temporary closure to prevent summer motorboat access that the floating bridge had prevented previously. The State was aware of and did not oppose the temporary closure and the supporting documentation indicated the Service’s intent was to assess the situation further and pursue more permanent options as appropriate. The temporary closure is repeated in this year’s compendium but without the commitment to pursue a more permanent option. Repeating a seasonal closure does not constitute a “temporary” restriction. If the Service intends for this closure to be permanent, 43 CFR 36.11 requires the Service to promulgate rulemaking for the closure to be enforceable. If the Service is still contemplating options to this temporary closure, the public hearing requirements in 43 CFR 36.11 need to be repeated. The State also requests an opportunity discuss the various options the Service is considering and to work cooperatively on a solution.

### **43 CFR 36.11(e) Temporary closures to the use of non-motorized surface transportation**

*The Valley of Ten Thousand Smokes, as shown on the attached map, is closed to bicycles except November 1 through March 31 if the superintendent has determined there to be adequate snow cover.*

The access provisions found in Section 1110(a) of ANILCA allow bikes in conservation system units in Alaska, subject to reasonable regulations by the Secretary to protect the natural or other values of the Park. While we recognize that bikes traveling off-trail would disturb fragile cryptobiotic crusts in the Park, it does not follow that the continued use of bikes traveling on the already disturbed established trail would have a negative impact that would necessitate a closure. We question the assertion that “Bicycle use has the potential to significantly increase the levels of disturbance to these cryptobiotic soil crusts on the trail compared to the hiking activity.” Both hiking and biking already occur on an established trail. On the ground impacts of the very limited number of bike users using the trail versus the busloads of visitors dropped off at the trailhead is difficult to determine. Bikers and hikers have coexisted, including on many very narrow trails, nearly without issue in ANILCA Parks for 40 years, therefore we question the need for this closure. We also note that this closure will further limit the opportunities the Secretary intended to afford e-bike users under SO 3376.



Once again, by presenting this as a temporary seasonal closure, the Service is intentionally circumventing the requirement for rulemaking, including notice and hearings, for permanent closures in 43 CFR 36.11. As this is proposed as a permanent closure, if carried forward, it must be implemented by regulation. If, as with the previous motorboat closure, the Service is contemplating other options, we request an opportunity to discuss this further in our upcoming meeting with the Superintendent.

### **Kenai Fjords National Park**

See comments on e-bikes

### **Klondike Gold Rush National Historical Park**

#### **13.1404 Klondike Gold Rush: authorization to collect mushrooms**

*The NPS proposes to reduce the daily amount of mushrooms that may be gathered on park administered lands for personal consumption. The proposed change would reduce the quantity gathered from three gallons to one gallon per person per day.*

Based on our discussions at the annual Compendium meeting, limiting individuals to collection of one gallon of mushrooms per day as opposed to the current allowance of three gallon per day is not based on resource concerns, other than the potential for the development of social trails, but rather a concern that the park be consistent with restrictions in lower 48 park units. Mushroom picking in Alaska is seasonal and determined by the weather. The ADF&G Division of Subsistence staff note, based upon subsistence mushroom harvest data from other areas of the state (mushroom gathering information in Southeast is limited and no information is available for the Skagway area) that the collection of three gallons of mushrooms per day per person for personal use is not unreasonable. Alaskans must maximize the efficiency of their harvests in the limited times and weather they have available. It is because of these natural limitations that Parks in Alaska have more liberal harvest restrictions than park units in California or other Lower 48 parks that have better harvest conditions. Due to the extremely limited season in Alaska, nearly all rural Alaska park units, under 13.35(f)(1), only restrict collection to two 5-gallon containers or do not limit collection.

The preamble to the Service's 2004 changes to 36 CFR Part 13 special regulations for the NPS-administered areas in Alaska (69 FR 17355 et seq.) clearly notes that mushrooms in the park are gathered non-commercially and are abundant.

*The park was not included in § 13.20(b)(1) when it was adopted because at that time the focus was on the park areas that were added by ANILCA... However, mushrooms are abundant in the park because of the favorable growing conditions provided by the temperate rain forests of Southeast Alaska. They are commonly gathered non-commercially by local residents and visitors in much the same way as wild fruits and berries are gathered where abundant on public lands in other areas. At this time, there does not appear to be a need to continue to prohibit the gathering of mushrooms. (69 FR 17360, 13.68(b)).*

The compendium does not include data to indicate conditions have changed to require any changes to the mushroom collection allowance. It is our understanding that no such changes have occurred. We

request that Klondike National Park remain consistent with other rural park units in Alaska rather than striving to be consistent with Lower 48 parks. If the KLGO chooses to move forward with this quantity reduction, we request information that demonstrates documented concerns regarding the resource (i.e., information on how current collection amounts are adversely affecting park wildlife or the perpetuation of subject species). We also request additional information on the types and quantity of mushrooms being harvested and by whom to better understand harvest use in the Park. It seems unlikely, given the size (over 12,000 acres) and remote nature of the park combined with the relatively small population living in the area around the park, that the reduction would be needed on a park-wide basis. Therefore, should the quantity reduction be implemented we request the park apply the reduction to only targeted areas where actual resource concerns exist.

Furthermore, the protection of mushroom resources is not noted as a “Key Issue” or “Challenge” for the KLGO, in the NPS’ most recent (2013) State of the Park report. Rather, the report states that “KLGO has one of the highest numbers of lichenized and lichenicolous fungus species per unit area ever reported, with 766 recorded taxa within its 53 km<sup>2</sup> area. The 2010 [Park] study discovered one lichen genus, four lichen species, and one species of lichenicolous fungus that were new to science and added 196 taxa to the list of those known for Alaska.” This research would support the interpretation there is not a shortage of mushrooms in the Park and therefore likely no need for a restriction.

Commercial harvest on Park lands is already prohibited, thus we believe it is unnecessary to limit personal consumption by Alaskans to amounts consistent with California or Lower 48 parks where the threat of commercial harvesting is greater.

## **Lake Clark National Park and Preserve**

### ***36 CFR 2.10(a) Bear resistant electric fencing required for camping***

***The NPS is proposing all camping facilities, shelters, structures and equipment must be enclosed within an active and functioning bear resistant electric fence when camping within ½ mile of the Cook Inlet coastline of Lake Clark National Park & Preserve. This regulation does not supersede, modify, or otherwise affect requirements for the use of a bear resistant food container or alternative approved food storage methods.***

Bear resistant containers (BRC) are already required in Lake Clark National Park and Preserve (LACL). Purchasing a BRC costs visitors approximately \$70 to camp in LACL. The Service is now proposing visitors spend another \$250 dollars for an electric fence. The total cost for both items is over \$300, which is a large amount of money that would be required of any group camping overnight in LACL. The proposal would have the unintended result of limiting the area based on socio-economic means to only guided visitors or those with ample disposable income. Further, this requirement effectively charges visitors a fee for use of the park thereby violating Sec. 203 of ANILCA, which prohibits the collection of fees for entrance or admission to Alaska National Park units.

It is unclear from the documentation provided if the Service has tried other less restrictive methods to address the concern. We realize the requirement to document previous efforts was eliminated for Alaska park units in the 2015 closure process changes but nevertheless, it is still reasonable to apply the least restrictive means to address an issue first. As such, we suggest educating park visitors as to the benefits

of using an electric fence while camping but making the use voluntary. Mandating that campers use an electric fence they are unfamiliar installing could well provide visitors with a false sense of security. Fences are tricky to install, potentially resulting in situations with more serious outcomes than currently occur.

ADF&G Staff believe that while electric fences can be an asset for campers in bear country, the fences have drawbacks and can be challenging to set up properly. According to “Protecting your Camp from Bears: Electric Fencing” Tom S. Smith, Ph.D., USGS, Alaska Science Center, electric fencing should be used primarily for the following situations:

- 1) long-term field camps (such as used by state and federal agencies to conduct management and research functions),
- 2) for hunting camps where game meat and trophies (e.g., hides, horns, etc.) may be stored,
- 3) in locations where bear numbers are known to be high, and
- 4) where problem bears have been known to frequent.

*One might also justify fencing if its deployment is the only way persons fearful of camping in bear country will go. The bottom line is that the use of electric fencing is up to the user, but **no bear experts will suggest it should be used by everyone.** (Emphasis added)*

If this proposal is carried forward in any manner, we request that it first be implemented through the concessionaire prospectus and in areas used for longer than 14 days. To our knowledge no park in the country has required bear fencing for individual users.

### **36 CFR 2.14(a)(9)(b) Sanitation: disposal, carrying of human body waste**

***NPS proposes that within the designated historic sites at Kijik and Proenneke’s Cabin, within 100 yards of NPS structures and ½ mile of the Cook Inlet coastline of Lake Clark National Park & Preserve, all solid human body waste and associated sanitary products such as toilet paper must be removed for disposal outside of the area in a manner approved for the method of collection. This regulation does not apply to the use of approved restroom facilities within these areas.***

This proposal appears reasonable if there is an issue at a specific location that already contains a vault toilet or outhouse; however, we do not support applying this to a vast swath of the Cook Inlet coastline and have concerns about potential impacts to uses of and access to adjacent areas. This proposal is out of alignment with current guidelines of the Alaska Department of Environmental Conservation, as well as designated wilderness guidelines which instruct users to dispose of human waste in cat-hole latrines. This proposal would require a group to carry all their human waste for the entirety of a trip, which mirrors what is required of visitors to the Harding Ice Field in Kenai Fjords National Park where human waste does not break down over time. It is inappropriate to require this of all visitors to such a large coastal area and request that this proposal be limited to designated historic sites.

### **36 CFR 2.60(a)(3) Livestock use and agriculture**

***The NPS proposes to remove the blanket authorization language for allowing grazing of pack animals. Individuals seeking authorization to allow pack animals to graze would need to request a permit from the park superintendent. The reasons for this proposed change are as follows: • The current authorization has the effect of permitting the unmanaged recreational use and grazing of***

*livestock in areas not compatible with that use such as immediately adjacent to visitor centers, administrative facilities and sensitive cultural or archaeological sites. Rather than manage this use through across the board restrictions under the compendium, the NPS would manage the use through individually issued permits. • This section also does not provide for consistency between how food and feed are managed in bear country. The NPS would manage permits to ensure food and feed are managed consistently and appropriately.*

This entry fails to recognize that the existing allowance for grazing pack animals without a permit is limited to less than 14 days in a calendar year; therefore, it is not an “unmanaged recreational use” as described. Further, 36 CFR 2.60(a)(3) applies to “The running-at-large, herding, driving across, allowing on, pasturing or grazing of livestock of any kind in a park area or the use of a park area for agricultural purposes...”; therefore, we question its application to this use. ANILCA Section 1110(a) allows pack stock in Alaska Park units for transportation purposes and requiring a permit to allow pack stock to eat grass or the food provided to them is a restriction, subject to the closure process found in 43 CFR 36.11. While we understand this entry was originally implemented through the Compendium and was likely intended as an allowance, we request the Service either leave the entry as is or remove all restrictions related to pack animals, and if determined necessary, follow the appropriate closure process at 43 CFR 36.11.

#### **Sitka National Historical Park**

See comments on e-bikes

#### **Western Arctic National Parklands (Cape Krusenstern National Monument, Kobuk Valley National Park, Noatak National Preserve)**

##### ***2.15(a)(3) Conditions for leaving pets unattended and tied to an object***

***Sled dogs used as transportation may be left unattended for up to 24 hours when afforded adequate shelter, food and water. Leaving pets unattended or unattended tied to an object or unattended inside a public use cabin for any length of time is prohibited.***

***The intent of these requirements is to help ensure pets aren't lost or injured, don't harass wildlife, cause predation, endanger people, or damage resources.***

We understand this entry is intended as an allowance to relax the restriction in the national regulations that apply to leaving “pets” unattended. However, the justification provided appears to apply to both the national prohibition and the compendium entry, which is confusing in and of itself. In addition, sled dogs are not “pets”, so it is also unclear why a relaxation of the national regulation is needed. ANILCA Section 1110(a) authorizes sled dogs as a method of transportation for traditional activities; therefore, this entry seems unnecessary.

##### **2.19(b) The towing of persons on skis, sleds, or other sliding devices by motor vehicle or snowmobile is prohibited, except in designated areas or routes.**

***The towing of persons on sleds by dog team or snowmobile is authorized in all areas of Western Arctic National Parklands.***

We understand the Service considers this entry necessary to relax the towing prohibition in the national regulations. We request the compendium entry explain that snowmachine use for traditional activities is allowed under Section 1110(a) of ANILCA and is further addressed under 43 CFR 36.

**Wrangell-St. Elias National Park and Preserve**

See comments on e-bikes

**Yukon-Charley Rivers National Preserve**

See comments on e-bikes

Thank you for this opportunity to comment. Please contact me at (907) 269-7529 with any questions for to set up follow up discussion on these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Magee', written in a cursive style.

Susan Magee  
ANILCA Program Coordinator

Enclosure

cc: Steve Wackowski, Special Assistant to the Secretary of Interior for Alaska