

National Park Service
U.S. Department of the Interior

Glacier Bay National Park and
Preserve
Alaska



Finding of No Significant Impact

**Proposed Permit for a New Commercial Fishing Cabin
In Glacier Bay National Preserve**

May, 2011

Recommended: *Susan Bourgeois* *May 19, 2011*
Superintendent, Glacier Bay National Park and Preserve / Date

Approved: *Gene G. Musier* *6/7/2011*
Regional Director, Alaska / Date

FINDING OF NO SIGNIFICANT IMPACT

Proposed Permit for a New Commercial Fishing Cabin In Glacier Bay National Preserve, Alaska May 2011

The National Park Service (NPS) prepared an environmental assessment (EA) to evaluate a request to build a cabin to support commercial fishing operations in the Glacier Bay National Preserve (Preserve). The applicant possesses a valid commercial set gillnet fishing permit for the Preserve and the sole purpose of the cabin and associated outbuildings would be support for his operations during the fishing season each year. The requested cabin would be located on 0.25 acres above the mean high water mark adjacent to Dog Salmon Creek in the Dry Bay area of the Preserve.

The NPS has selected Alternative 2 (Issue a Permit for Cabin Construction) under which the NPS would issue a permit to a authorized commercial fisher for the construction and annual use of a cabin to be used in support of his fishing activities in the Preserve.

Four letters were received on the EA during the 30-day public comment period. The selected alternative was not modified by public comment. An attachment to the FONSI provides responses to substantive comments.

ALTERNATIVES

Two alternatives were evaluated in the EA.

Alternative 1: No Action

No permit for cabin construction would be issued. The applicant would either continue to share a cabin belonging to family members or use a temporary tent platform inside the Temporary Commercial Fish Camp Zone of the Preserve.

Alternative 1 would be the Environmentally Preferred Alternative.

Alternative 2: Issue a Permit for Cabin Construction (NPS Preferred Alternative)

The applicant would be issued a permit to construct a cabin on a 0.25 acre parcel near Dog Salmon Creek. The cabin and any associated structures may not exceed 576 square feet. A driven well, kitchen sump, and outhouse without permanent foundations would also be permitted. The permittee may also clear a short (approximately 500 linear feet) ORV access trail from the West side of the parcel that connects to the existing trail system. No roadbed leveling, gravel removal, or other construction may occur. Construction could begin immediately.

PUBLIC INVOLVEMENT

The EA was issued for public review and comment from January 26, 2011 to February 26, 2011. The EA was also posted on the Planning, Environment, and Public Comment (PEPC) website, the park's website, through regional news releases, and 38 letters to other Dry Bay residents.

Four letters were received during the 30-day public comment period. Substantive comments on the EA were received from the State of Alaska ANILCA Implementation Program, Yakutat Tlingit Tribe, and two individuals. Responses to substantive comments are included in Attachment A. The public comments did not change the conclusions in the EA about the environmental effects of the action.

DECISION

The NPS decision is to select Alternative B (Proposed Action), along with the mitigating measures below.

Mitigating Measures

Migratory Bird Protection: Tree cutting, shrub clearing, grubbing, and other site preparation activities outside the immediate construction footprint are prohibited between April 15 and July 15. If an active nest is discovered, *at any time*, including before or after this timing window, it shall be left in place and protected until young hatch and depart. "Active" is indicated by intact eggs, live chicks, or presence of adults on the nest.

Invasive Plant Management: Care will be taken to minimize the extent and severity of soil disturbance and avoid the loss of desirable native vegetation. Disturbed ground at the cabin site will be monitored after project completion to ensure that invasive plants are quickly found and removed. Care will be taken to avoid working or moving equipment through weed infested areas. Before bringing building materials into the Preserve, weeds, seeds, and other plant parts shall be removed to avoid introduction or spread of invasive plants.

Cultural Resources: Prior to cabin construction, the NPS would complete a cultural resource survey and clearance as per Section 106 of the National Historic Preservation Act (NHPA). If cultural resources are discovered, the site would be protected and the activities would stop until the park archaeologist can be notified and has the opportunity to evaluate the site. If something significant is found, the cabin site may need to be relocated.

Human Waste Disposal: The applicant would be required to meet the State of Alaska Department of Environmental Conservation requirements for human waste disposal. The applicant would be required to dispose of human waste at least 100 feet from the normal high water mark and at least 4 feet above water level at the normal high water mark of Dog Salmon Creek. The applicant would also be required to develop a plan to prevent human waste from entering the Dog Salmon Creek estuary during floods.

Visual Resources: Pursuant to 36 CFR 13.118 when constructing, maintaining, or repairing the cabin, the applicant must use materials and methods that blend with and are compatible with the immediate surrounding area. In this case, materials would be colored to blend with the surroundings.

Rationale for the Decision

Alternative 2 (NPS issues a Permit for Cabin Construction) will satisfy the purpose and need for the project better than the no-action alternative.

ANILCA Section 205 provides for commercial fishing activity in the National Preserve:

“The Secretary may take no action to restrict unreasonably the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law, including the use of public lands for campsites, cabins, motorized vehicles, and aircraft landings on existing airstrips, directly incident to the exercise of such rights or privileges except that this prohibition shall not apply to activities which the Secretary, after conducting a public hearing in the affected locality, finds constitute a significant expansion of the use of park lands beyond the level of such use during 1979.”

The number of active commercial fishers is about 15 currently and the number of cabin permits is capped at 21. There are 20 cabins on NPS lands in Dry Bay. A new cabin would permit the applicant; who currently participates in the commercial set gillnet salmon fishery; to operate independently during the annual fishing season. There would be no net increase in the number of commercial fishers as the applicant and his family have been active in the Dry Bay area for a number of years. There would be no net increase in the number of permitted cabins as another cabin was lost to flooding some years earlier. The location of the abandoned cabin was no longer usable so it was never rebuilt. The proposed cabin site is adjacent to other existing cabins in annual use. The overall amount of land used to support commercial fishing activity would not increase beyond the level present in 1979.

The permit would authorize construction of a cabin and associated structures not to exceed 576 square feet. The permittee may install a kitchen sump and driven water wellpoint. No structures may include foundations. A short (about 500 feet) ORV access trail may be developed to connect to the existing trail network. No roadbed leveling, gravel removal, excavations, or other construction may occur. The cabin may be used in direct support of commercial fishing activity from May 1 through October 31 each year.

Alternative 1 (no-action) was not selected because it would restrict the applicant's ability to exercise a valid fishing right.

SIGNIFICANCE CRITERIA

The preferred alternative will not have a significant effect on the human environment. This conclusion is based on the following examination of the significance criteria defined in 40 CFR Section 1508.27.

Impacts that may be beneficial or adverse.

The EA evaluated the effects of Alternative B on vegetation and wildlife. As documented in the EA the effects of the proposed action would be minor on both resources.

The degree to which the selected alternative will affect public health or safety.

The proposed action would not affect public health or safety.

Unique characteristics of the geographic area such as proximity to cultural or historic resources, park lands, prime farm lands, wetlands, wild and scenic rivers, or ecologically critical areas.

The project area is located in the Dry Bay area of Glacier Bay National Preserve. The Dry Bay area landscape is dynamic and is rising due to isostatic rebound. Numerous north-south oriented stream channels drain wetlands throughout the area. Glaciers and ice dams have blocked the Alsek River followed by sudden breaches, creating large flood events shaping Dry Bay during recent geological times. Heavy rains in the area provide tremendous moisture to the soils and sediments which feed drainages such as Dog Salmon Creek. Coastal sandy areas are affected by massive storms from the North Gulf of Alaska, including wave surges and strong winds.

These unique characteristics and processes would not be affected by the selected alternative.

The degree to which the effects on the quality of the human environment are likely to be highly controversial.

Scoping with Federal, State, local agencies, and the public did not identify any highly controversial issues or effects associated with the project.

The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

This proposal does not present any highly uncertain or involve any unique or unknown risks.

The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about future considerations.

Currently, there are approximately 20 commercial fishing cabins on NPS lands in the Dry Bay area. Most have been in place for many years as the number of fishing permittees has been stable or slowly declining. The number of cabins is capped at 21. The amount of use on public lands will not significantly exceed the level present in 1979.

Whether the action is related to other actions with individually but cumulatively significant impacts.

There are no related actions being proposed for the National Preserve.

The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss of destruction of significant scientific, cultural or historic resources.

There were no historic or cultural resources listed or eligible for listing on the National Register of Historic Places identified during the preparation of the EA.

The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

The selected alternative would not adversely affect any endangered or threatened species or its habitat. No endangered or threatened species are located in the project area. Threatened Steller sea lions occasionally pursue fish into the East Alsek estuary; however, there are no records of sea lions hauling out along the Dog Salmon Creek shoreline where the proposed cabin would be built.

Whether the action threatens a violation of Federal, State, or Local law or requirements imposed for the protection of the environment.

The selected alternative would not violate any Federal State or local laws.

FINDINGS

The levels of adverse impacts to park resources from the proposed alternative will not result in an impairment of park resources that fulfill specific purposes identified in existing legislation or that is key to the natural or cultural integrity of the park.

The proposed alternative complies with the Endangered Species Act, the National Historic Preservation Act, and other environmental laws and mandates. There will be no restriction of subsistence activities as documented by the ANILCA, Title VIII, Section 810(a) Summary Evaluation and Findings.

The NPS has determined that the proposed alternative does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, in accordance with the National Environmental Policy Act of 1969 and the regulations of the Council on Environmental Quality (40 CFR 1508.9), an Environmental Impact Statement is not needed and will not be prepared for this project.

ATTACHMENT A

NPS RESPONSES TO PUBLIC COMMENTS and ERRATA

for the PROPOSED PERMIT FOR A COMMERCIAL FISHING CABIN ENVIRONMENTAL ASSESSMENT

The 30-day public comment period for the Commercial Fishing Cabin Environmental Assessment (EA) in Glacier Bay National Preserve ended February 26, 2011. Four letters were received from members of the public, tribal, and State organizations. Comments from the State, Yakutat Tlingit Tribe, and one private individual were in favor of the proposed action. Described below are the substantive comments and agency responses.

Comment: *The State of Alaska ANILCA Implementation Program Office of Project Management and Planning stated it was supportive of the project. They also enclosed a Department of Environmental Conservation (DEC) Wastewater Program Fact Sheet detailing pit privy design, operation, and closure and recommended it be provided to the permittee.*

Response: NPS commercial fishing permittees in Dry Bay are required to meet State of Alaska DEC requirements for human waste disposal. The Fact Sheet will be provided to the applicant.

Comment: *The document reviewed is a Draft EA. Therefore I expect a Final EA will be issued for public review.*

Response: The EA released for public comment in January, 2011, was not a draft; however the page header in portions of the document was mislabeled "draft". The page header text has been corrected. No additional version of the EA will be prepared.

Comment: *The Draft EA cites ANILCA Section 1303(b)(1) even though this section does not apply to the National Park Service.*

Response: The citation has been corrected to read ANILCA Section 1303(a).

Comment: *The Draft EA eliminated Commercial Fishing as an issue for analysis even though it is a new cabin on a very short salmon river. The Wildlife issue analysis does not mention salmon. Unless NPS monitors available salmon resources, commercial harvest level, and escapement, how can it be sure wild salmon resources are not being significantly and negatively impacted? There is no mention of ADF&G's monitoring of salmon in the area either. What assurance does NPS have that this cabin's directly related commercial fishery will not significantly impact the park's salmon resources? How are priorities set for NPS monitoring for healthy salmon populations or for cooperation with ADF&G to do the same?*

Response: Commercial Fishing was eliminated as an analysis topic in the EA because there would be no increase in the number of commercial fishing permittees, no increase in fishing activity beyond what occurs now, and no changes to the set gillnet fishery harvest level by the

State of Alaska. The cabin permit applicant is a current participant in the set gillnet fishery and has operated out of an existing shared cabin. The analysis topic “wildlife” does not include discussions of any species of fish. The NPS proposes no changes to the allowable salmon harvest for Dry Bay and will continue to cooperate with the State in managing salmon resources in the Preserve.

Comment: *Has NMFS or FWS been consulted regarding no impacts to listed species? They are not referenced in Chapter 4. Is the project area within “critical habitat” of any listed marine mammal?*

Response: The NPS consulted with NMFS and USFWS during development of the Glacier Bay National Preserve Off-Road Vehicle Use Environmental Assessment/Management Plan in 2007. The area of effect includes the proposed cabin site. As stated in the EA (1.5.2 Issues Eliminated from Further Consideration: Threatened and Endangered Species), there are no listed species in the cabin project area.

Threatened Steller sea lions occasionally pursue fish into the East Alsek River estuary but have not been recorded in the project area. Sea lion use of the East Alsek River coincides with eulachon spawning in March and April. Commercial fishing cabins are not open for use and occupancy until May 1 each year. No marine mammal haulouts are located on the banks of Dog Salmon Creek adjacent to the proposed cabin site. There should be no effect from the proposed cabin. There is no critical habitat designation for any other listed species in Dry Bay.

Comment: *The Draft EA has a mitigation measure of “Cultural Resources” indicating that a cultural resource survey would be done in the future. This means that one has not been done. A cultural survey should be conducted and approved prior to signing the FONSI.*

Response: As stated in the EA (1.5.2 Issues Eliminated from Further Consideration: Cultural Resources), and in the Glacier Bay National Preserve Off-Road Vehicle Use Plan EA (2007), the portion of Dry Bay within the area of potential effect was unsuitable for human habitation throughout history because it is young and extremely dynamic. The river delta has evolved from a shifting glacial outwash plain only within the past 200 years. Periodic glacial outwash floods down the Alsek River would have swept any existing cultural deposits away. There is no soil development that would protect cultural deposits in the event some past activity might have left physical remains. Several Tlingit legend sites associated with Raven creation stories occur in the area but these are natural bedrock outcrops some distance from the project area.

Section 2.3 of the EA (Mitigation Measures: Cultural Resources) states that the NPS would complete a cultural resource survey and clearance (as per Section 106 of the National Historic Preservation Act) of the proposed cabin site. If cultural resources are discovered, the site would be protected and activities would stop until the park archeologist can evaluate the site. As cabin construction will not include dug foundations soil disturbance should be superficial.

Comment: *A NPS Park Ranger should monitor the construction and use of the cabin and ensure that its use is limited to direct support of commercial fishing, as required by law. If the cabin*

becomes abandoned for over 2 years or used for other than commercial fishing support the NPS should try to get the owner to remove it.

Response: The NPS assigns a Park Ranger for Dry Bay year round, plus two seasonal backcountry rangers and does monitor the uses and activity associated with cabins, land assignments, commercial fishing, vehicle use, recreation and subsistence uses. Dry Bay cabin users who comply with the terms of their permits, renew the permits, and participate in the set gillnet fishery may continue to use their cabin allotments from May 1 through October 31 each year.

ERRATA

Proposed Permit for a New Commercial Fishing Cabin in Glacier Bay National Preserve Environmental Assessment

Page 7, 2nd paragraph. The paragraph is revised to provide additional information concerning the permit. The paragraph is revised as follows:

No new permit is required. The existing special use permit for a commercial fishing camp will be revised to reflect the new camp location.