

APPENDIX A

NPS RESPONSE TO PUBLIC COMMENTS for Subsistence Collections and Uses of Shed or Discarded Animal Parts and Plants From National Park Service Areas in Alaska Environmental Assessment

In response to the environmental assessment, the NPS received 30 comment letters and additional comments at public meetings during the public comment period. Described below are the substantive comments and the NPS responses. Substantive comments are those which raise important new issues, suggest new viable alternatives, suggest mitigation measures, or correct or add factual information that may have bearing on the impacts or decision at hand. The following parties submitted substantive comments. Their comments are organized and numbered with the NPS responses following immediately after:

Government to Government:

SOA - State of Alaska
NVK - Native Village of Kotzebue
TVC - Telida Village Council

Subsistence Resource Commissions (SRCs) and Regional Advisory Councils (RACs):

CAKR-SRC - Cape Krusenstern Subsistence Resource Commission
DENA-SRC - Denali National Park and Preserve Subsistence Resource Commission
WRST-SRC - Wrangell-Saint Elias National Park Subsistence Resource Commission
BB-RAC - Bristol Bay Federal Subsistence Regional Advisory Council
EI-RAC - Eastern Interior Federal Subsistence Regional Advisory Council
NS-RAC - North Slope Federal Subsistence Regional Advisory Council
NWA-RAC - Northwest Alaska Federal Subsistence Regional Advisory Council
SP-RAC - Seward Peninsula Federal Subsistence Regional Advisory Council
SC-RAC - Southcentral Alaska Federal Subsistence Regional Advisory Council
SE-RAC - Southeast Alaska Federal Subsistence Regional Advisory Council
WI-RAC - Western Interior Federal Subsistence Regional Advisory Council

Non-governmental Organizations (NGOs):

NPCA - National Parks Conservation Association
SCAC - Sierra Club Alaska Chapter
DCC - Denali Citizens Council

Corporations and Businesses:

AI - Ahtna, Incorporated
AKA - AK Adventures
WAK - Wilderness Alaska
WBA - Wilderness Birding Adventures

Groups or Individuals:

SNSU - Slana and Nabesna Subsistence Users

Individual #1

Individual #2

Individual #3

Individual #4

Individual #5

Individual #6

Individual #7

Individual #8

SOA1: *In addition, the preamble to the NPS 36 CFR Part 13 regulations promulgated in 1981 was clear that the intent of Congress was "...to avoid a subsistence permit system to the extent possible." The discussion also clarified that "The subsistence permit described in §13.44 of the regulations is not a federal hunting permit; rather, it is part of the system contemplated by ANILCA for identifying the "local rural residents" who are authorized to engage in subsistence uses in national park and monuments." (52 FR 31841) However, Alternatives C and D give Superintendents considerable discretion to impose additional restrictions on eligible subsistence users, including requiring a permit.*

NPS Response: Though the preamble to the 1981 NPS final rule (46 FR 31836) said, "... avoid a subsistence permit system to the extent possible." (31850), this section addresses resident zones and not specifically resource protection. The ANILCA Section 201 clearly states "areas established as units of the National Park System shall be administered by the Secretary under the laws governing the administration of such lands and under provisions of this Act." During the course of the last 20 years the Federal Subsistence Board issued permits to federally qualified subsistence users, on federal lands including NPS lands, to manage Title VIII subsistence hunting, trapping, and fishing to manage and protect fish and wildlife populations. Similarly, the NPS considered in this EA the use of permits for collection of natural resources in park areas to ensure that natural resources are properly protected. Since 1981 NPS regulations have required subsistence permits for certain resource utilization, (e.g. timber and access). The NPS has decided, however, to require NPS-qualified subsistence collectors to have written authorization from the area superintendent before collecting materials from NPS-administered areas. The authorizations can take many forms, depending what is most appropriate for the affected area and subsistence users. For example, written authorizations may be permits issued to individuals, written authorizations issued from the superintendent to individual resident zone communities, or written authorization issued to entire resident zones. None of the proposed authorizations can be issued until the NPS completes updated Alaska-specific regulations in 36 CFR Part 13 to determine how this program would be administered.

SOA2: *In addition, while we appreciate the allowance for the use of airplanes to transport handicraft materials in preserves, we request this include other areas where there is a subsistence aircraft exemption (e.g., Gates of the Arctic and Wrangell St. Elias).*

NPS Response: The EA indicates on pages 3-22 and 4-26 that the use of aircraft is allowed for subsistence uses on the Malaspina Forelands of Wrangell-Saint Elias National Park, pursuant to

36 CFR 13.1902(c). Such use of aircraft is limited to permanent residents of Yakutat. The EA did not indicate that residents of Anaktuvuk Pass may be permitted to use aircraft for access to lands and waters within Gates of the Arctic National Park for subsistence purposes, pursuant to 36 CFR 13.1004. The environmental assessment is modified in the errata to address this point.

SOA3: *We request the Service simply expand the allowances under the existing 36 CFR Part 13 regulations and rely on existing definitions and closure processes for implementation. We concur with the EA that under all action alternatives, including Alternative B, which allows for the broadest level of eligibility among subsistence users without permits, the potential for impacts is minor, if not negligible. Limiting eligibility or further restricting the use by requiring permits, as described under Alternatives C and D, is unjustified. If unchanged, these additional burdensome requirements may instead serve as a deterrent to users, thereby effectively nullifying the Service's good intentions to allow this traditional use on park lands in Alaska.*

NPS Response: The NPS nationwide regulations apply in Alaska unless modified by Alaska specific regulations. Such a regulation is 36 CFR 2.1(a), which prohibits “possessing, destroying, injuring, defacing, removing, digging or disturbing from its natural state: living or dead wildlife or fish or the parts or products thereof, such as antlers or nests”. The NPS chose to evaluate the subsistence collections and the making and selling of handicrafts through this environmental assessment, which provides a public process and the opportunity for public comment. In terms of limiting eligibility the NPS disagrees with the State that evaluating these uses for rural residents is unjustified. The definition of subsistence uses in ANILCA speaks to rural Alaska residents. In regard to the potential use of permits, the NPS included the concept of permits in two of the alternatives to monitor the level of resource uses that could either degrade natural resource conditions or visitor enjoyment and to provide a reasonable range of alternatives. Based on public comments, the NPS has decided to adjust a requirement for permits to requiring written authorization from the area superintendent. Authorizations can take many forms as described above in SOA-1. These written authorizations can be obtained by or provided to prospective NPS-qualified subsistence collectors. The eligibility restrictions follow the Federal Subsistence Board customary and traditional (C&T) use determinations used for wildlife harvests. Any person who has C&T in an area for any wildlife species also has C&T for the collection and use of plant materials to make handicrafts for personal use, barter, or sale.

SOA4 & SPRAC5: *Lastly, it appears Congress intended that the collection and use of shed or discarded animal parts be allowed in Alaska preserves for both federally qualified and non-qualified users. Section 1313 of ANILCA states:*

*A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the **taking of fish and wildlife** for sport purposes and subsistence uses, and trapping **shall be allowed** in a national preserve under applicable State and Federal law and regulation. (Emphasis added)*

*As provided under Section 102 of ANILCA “the term ‘fish and wildlife’ means any member of the animal kingdom, including without limitation any mammal... and includes any part, product, egg, or offspring thereof, **or the dead body or part thereof**” (emphasis added). Additionally,*

“the term ‘take’ or ‘taking’ as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct” (emphasis added). By incorporating these definitions, the intent of Section 1313 reads as follows:

A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the [collecting] of [the dead body or part[s]] of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed in a national preserve under applicable State and Federal law and regulation. (Emphasis added.)

While we recognize that regulations at 36 CFR 2.1 prohibit this activity nationally, limiting the proposed allowance in preserves to subsistence use may be inconsistent with ANILCA. We request the Service also consider further expanding this allowance to all users in preserves.

NPS Response: The NPS understands the comment to suggest further expanding the potential group of users, who might benefit. We have considered this request but conclude that “all users in preserves” should not be included. This would allow all residents of the State, non-residents and foreign nationals the opportunity to collect such resources, a use provided only to rural residents of Alaska. ANILCA is clear that it includes “rural residents” when speaking about subsistence uses, not all Alaska residents or even nonresidents. Additionally, the existing Alaska specific regulation at 36 CFR 13.35 (b) prohibits collection by those who are not “local rural residents.”

NVK1 & CAKR-SRC1: *While not highlighted in the EA, animal parts and even some plant parts continue to be used to make implements with utilitarian functions. Using materials from plants and animals to make utilitarian and artistic items was the basis for the culture that occupied this region from time immemorial and it is still a core element of Native Village of Kotzebue tribal members today.*

NPS Response: The EA section 3.3 on economic conditions in local rural communities describes the importance of handicraft in communities near national park areas, but the uses of these resources is not highlighted as a core element of these ancient cultures. The NPS recognizes that Alaska Native tribal members have used animal and plant parts to make implements with utilitarian functions and artistic items as a basis of their cultures for centuries or millennia. We agree it is customary and traditional for rural Alaskan residents to collect wildlife parts or plant materials to make useful or artistic items for personal or family uses or to barter, trade, or sell such handicrafts as customary trade.

NVK2: *Western Arctic National Parklands (WEAR) creation and management documents acknowledge these areas are to be used to support the Inupiaq culture and the traditional activities that continue on in the areas that are now identified as the WEAR parklands.*

NPS Response: The NPS recognizes the EA did not delve into the specific management documents for each area. ANILCA § 203 states, “Subsistence uses by local residents shall be allowed in national preserves and, where specifically permitted by this Act, in national

monuments and parks.” For the four WEAR park areas ANILCA Title II purposes are provided in Part II of Appendix B, ANILCA Section 810(a) Subsistence Evaluation and Findings.

NVK3 & CAKR-SRC2: *While it is true many local people make use of animal parts and plants that are collected from areas in the region where this is allowed (a minority of land area since NPS manages 60-70% of land in the region), this general use has never created resource conservation concerns in the region. The only local examples of where this issue led to conservation concerns was with a very small number of individuals selling unworked raw material en masse for purely commercial motives, which the proposed action will not allow. In these past instances local people were very vocal about their opposition to this commercial raw material trade and have participated in rulemaking to stop this activity.*

NPS Response: The NPS agrees that a large portion of Northwest Alaska is managed by the NPS and that resource conservation concerns from collections and uses of animal parts and plants are not expected, which is why the impacts of the alternatives are minor in all cases. We are also aware of and appreciate local concerns regarding the mass sale of unworked raw material, especially caribou antlers. The contemplated regulations will not authorize that activity.

NVK4: *The use information that a permit system would provide NPS in relation to types and amounts of animal and plant parts collected in NPS areas can be obtained through the social sciences research approach, which if designed correctly may provide even more information than what could be collected through a permit process.*

NPS Response: The NPS has inquired of those who have conducted community harvest surveys if questions about collections of animal parts and plants to make handicrafts could be added to those surveys, and all indicated this could be done. We are aware that annual game harvest information from remote rural communities often is based on reporting rates of much less than 50% , but we also know that community harvest surveys, though more accurate, are infrequent and may occur only once every decade or two. If an area superintendent decides not to require periodic reporting of collections in park areas, then they could opt for gathering information on subsistence collections through community harvest surveys.

NVK5: *We request that permit authority be at discretion of the Superintendents of the various Alaska park units under discussion in this EA. This would allow for flexibility in implementing this activity in a way that could be tailored for specific conservation concerns in any particular park unit without imposing unnecessary burdens on subsistence users of areas where conservation concerns are not as great.*

NPS Response: The NPS has decided to select a modified Alternative D, which requires a permit or other written authorization from the area superintendent for subsistence users to collect wild renewable resources to make and sell handicrafts. The intent of the decision is to provide area superintendents with discretion on how to authorize subsistence collections in writing, but not whether they do so.

TVC1: *The Tribe favors a hybrid alternative that combines Alternative B, Broad Eligibility and No Permits, and Alternative C, Eligibility Restricted by Areas with Discretionary Permits.*

Specifically, the Tribe questions whether ruling out a permitting process at the outset is wise; however, we also question whether requiring a Federal Subsistence Board customary and traditional use finding, in addition to the resident zone or Section 13.440 permit requirement adds unnecessary bureaucracy.

NPS Response: The NPS appreciates the Tribe's preference for a hybrid alternative combining elements of alternatives B and C. We understand such an alternative would allow for broad eligibility in areas without following more restrictive Federal C&T findings for areas and species but would keep open the possibility for permits in the future if conservation issues should arise. The NPS has selected a modified alternative D requiring permits or other written authorization from the area superintendent to better protect natural resource conditions and other uses and enjoyment of these areas. The NPS does not think committing to broad eligibility for local rural residents in all Alaska NPS areas where subsistence is allowed would be the best option because for some resources such as wolves, grouse, ptarmigan, and other small game the Federal C&T eligibility findings and regulations are very broad and include rural residents from nearly across the entire state of Alaska.

CAKR-SRC3: *It is true that this activity uses resources that are not required to be monitored in real time, such as what a limited harvest quota for a particular big game species may require in order for managers to halt harvesting through emergency order. The use information that a permit system would provide NPS in relation to types and amounts of animal and plant parts collected in NPS areas can be obtained through the social sciences research approach, which if designed correctly may provide even more information than what could be collected through a permit process.*

NPS Response: The NPS agrees that for most park situations real-time monitoring and emergency order closures would probably not be needed for the proposed uses. See also response to NVK4.

CAKR-SRC4: *We request that permit authority be at discretion of the Superintendents of the various Alaska park units under discussion in this EA. This would allow for flexibility in implementing this activity in a way that could be tailored for specific conservation concerns in any particular park unit without imposing unnecessary burdens on subsistence users of areas where conservation concerns are not as great. This would also provide the option for a Superintendent in any particular park area to request implementation of a permit at some future time based on a documented need for such a permit process and allow for full consultation with the local SRC's before such a permit process is adopted.*

NPS Response: See response to NVK5. The NPS will consult with the appropriate SRC and/or RAC for a monument such as Cape Krusenstern National Monument, and as appropriate, tribes and ANILCA corporations.

DENA-SRC1: *The SRC members approved Alternative C with the caveat that no permits should be issued until there is a documented need for them, which would be evaluated by the SRC. The SRC would like to retain the permit option in the event it is determined that there is a need to manage the collection of discarded animal parts and plants through the implementation of*

permits in the future. The SRC would like to manage the collection of animal parts and plants as simply as possible. Complex regulations make it difficult for subsistence users to know what the laws are and discourage them from pursuing traditional activities even if they are legal.

NPS Response: The NPS decision is to select a modified Alternative D, which includes a requirement that the area superintendent issues subsistence collecting permits or other written authorizations for subsistence collections by NPS-qualified rural residents while protecting area resources and other uses and enjoyment of NPS-managed areas. This decision leads to the next step to promulgate regulations that are clear, understandable, and reasonable. The NPS will consult with the appropriate SRCs, and/or RACs, and as appropriate, tribes and ANCSA corporations during the regulation process. The NPS will strive to make regulations for subsistence collections as simple and understandable as possible to allow for customary and traditional activities.

WRST-SRC1, SCRAC2, & AI-2: *Some members expressed concern about the protection of cultural resources and in particular artifacts. The SRC suggests educational efforts to clarify what could and could not be collected under the proposed regulations.*

NPS Response: The NPS agrees that an educational effort is needed as a mitigating measure to accompany any new regulation that would allow collections of wild renewable resources in NPS ANILCA areas in Alaska, which would include information about items not to be collected such as nonrenewable cultural artifacts. The NPS decision adopts mitigating measures, which include a provision to educate potential collectors about what can and cannot be collected and where. The NPS retains the ability to establish conditions of collections such that cultural resource sites and artifacts are protected. The decision also includes consultation with affected SRCs, RACs, and as appropriate, tribes and ANCSA corporations to help identify and protect sensitive areas noted in these comments. See also response to DCC1.

BBRAC1: *Does an individual go get a permit every year, or is this like an individual halibut permit, or what kind of permit would it be? Is this something you have to go get and pay 10 bucks for?*

NPS Response: A permit fee would not be required. The form of the written authorization will be left to the discretion of the area superintendent.

BBRAC2: *I don't live here, but I'm still hung up on Kakhonak not being eligible. The people have lived there, and they've used the resources. What were the criteria for eligibility? The community is here (near these park areas), and the people in close communities like this are related to each other, and they travel back and forth. I know from working in that area that Kakhonak, Newhalen, and Iliamna are interrelated, so they are sharing and they are harvesting and gathering in the same areas.*

NPS Response: The community of Kakhonak was not determined eligible for inclusion in the resident zone of the Lake Clark National Park; however, the Federal Subsistence Board has found residents to have customary and traditional uses of several species in the closer Katmai National Preserve and Lake Clark National Preserve areas. Residents of Kakhonak who can

demonstrate traditional uses of Lake Clark National Park could apply to the superintendent for a 36 CFR 13.440 subsistence use permit and, if qualified, receive a subsistence use permit.

BBRAC3: *Is there a way to make a permitting system that allowed somebody from Adak to come up to one of these parks or whatever and get a permit say for each park or wherever they wanted the permit, and NPS allowed only 500 permits per year? The people that did something with them (collections) had to have a Silver Hands permit to go along with their permit for picking horns to make items or whatever. I would like to see it written somehow where one could be Alaska Native with a Silver Hand permit to sell items if they went to the park and collected them.*

NPS Response: No because only local rural residents are authorized to participate in subsistence activities in national park areas in Alaska. Subsistence users are not limited to Alaska Natives. The Alaska Natives on the State of Alaska list of Silver Hand craftsmen does not affect who is qualified for subsistence collections in these areas.

BBRAC4: *I would like to put forward alternative E so that others might see it and take it into consideration ... throughout this process. My proposal would have local RACs and SRCs stipulating who is allowed (eligible for collections) in conjunction with the NPS to include regional areas residents, including local area folks in addition to those that live in villages approved by the NPS (resident zone communities). Local area residents would not be required to obtain permits as in Alternative B, but non-local residents wanting access to resources in preserves would need to obtain a permit from the superintendent as in Alternative C in consultation with the SRCs and RACs. Those wanting access to resources in preserves would need to meet eligibility as expressed in Alternative D with federal C&T for species in GMU areas. There would be a mandatory reevaluation of the process every 12 months, so if we got something really wrong, then we could reevaluate it and fix it or head in the right direction. (Motion discussed and passed on a vote of 6-1.)*

NPS Response: The NPS recognizes three components to this alternative: who is eligible for collections; of those eligible, who needs to obtain a permit; and can the permit system be re-evaluated and changed over time? Only local rural residents would be eligible and they would need to demonstrate customary and tradition uses of resources in the area. For parks and monuments resident zones are identified in 36 CFR Part 13. For all federal lands, including national preserves, the Federal Subsistence Board has made customary and traditional use determinations (C&T) for rural residents who have demonstrated uses of particular resources in those areas. The NPS envisions a system with flexibility to adjust to resource and user needs over time, including consultations with area SRCs and RACs, and including changes in area collection rules in annual area compendia. The NPS has decided to select a modified Alternative D where eligible persons are limited to those with C&T for each species in each management unit and where area superintendents will require subsistence collecting permits or other written authorizations to manage collections so as to authorize collections by NPS-qualified rural residents and to protect park resources and visitor enjoyment of areas. See also response to DENASRC1.

EIRAC1: *I am wondering if we go to discretionary permits from a superintendent pending consultation with appropriate SRCs, how timely of a process is that going to be? Is this a permit*

a person would apply for once in a lifetime, or would it be done year after year. If yearly, this seems incredibly inefficient and not beneficial to the subsistence user.

NPS Response: We have discussed and presented in Appendix C annual permits, three-year permits, possibly 5-year permits. These details would be addressed at the regulation stage and for each affected area. The idea is to provide flexibility to address differing situations across the state, yet do so in a manner that protects valued resources for all citizens and visitors to enjoy.

EIRAC2 & DCC7:

Is it possible for separate regulations to be written specifically for each NPS area to address different subsistence use situations for the different areas, such as the difference between managing a preserve and a park? Individual units can develop tailored regulations to serve the proven traditional needs and practices of their subsistence user populations. This will provide a more equitable and less potentially damaging scenario for protecting both subsistence needs and the mission of the National Park Service as a whole.

NPS Response: Yes, that is possible. The NPS promulgates regulations for National Park System areas in Alaska at 36 CFR Part 13. If the NPS proceeds to the regulatory step, then we may consider separate regulations for each NPS unit where subsistence is allowed, as now exists for customary and traditional uses of plant material in Kobuk River National Park and the Kobuk River Unit of Gates of the Arctic National Preserve. See also the response to Individual #8-7.

NSRAC1: *Subsistence take of muskox usually requires destruction of the horns because it is a trophy animal and taxidermists often do head mounts of muskox. They use a caste, a polymer type fake horn, and the cape to mount a muskox, so would it be possible under new regulations to be permitted to harvest muskox horns off the tundra from a dead animal and then sell them in handicraft or use them in taxidermy for head mounts where we would be putting real muskox horns on the head mount?*

NPS Response: Under the proposal, an NPS qualified subsistence user could collect parts of a dead muskox, naturally shed or discarded by a hunter, and including the horns, to make handicrafts and sell them. A trophy mount is not within the definition of a handicraft (50 CFR 100.25), and this would not be allowed under these regulations.

NWARAC1: *I was disappointed to hear that last fall someone came in and bought boat loads of antlers from the Selawik area. I was disappointed because those antlers are markers that show us how many bends in the river one has to go, or there is a barrier ahead, or there are blueberries under the willows, so these can be significant markers for us (subsistence users).*

NPS Response: The sale of unworked material would not be allowed under the NPS proposed alternatives or any other alternative. We have also considered collection limits (see EA Appendix C). There are already federal and state regulations for the GMU 23 area that make these mass collections and sales illegal. The NPS does not think the proposed alternative would result in the wholesale cleansing of the areas of shed or discarded antlers and horns. Superintendents would have the discretion to not allow the collections of antlers and other animal materials near travel corridors such as rivers, roads, main trails, and coasts of lakes or the sea. These restrictions could

be part of final regulations, or collection conditions for a resident zone, or conditions in individual permits, where issued. Consultation with the appropriate SRCs, RACs, and tribes should help identify locations where subsistence collections by NPS-qualified rural residents should not take place.

NWARAC2: *I'm afraid we could see folks, both young and old, who want to make some money, could go out and shoot a caribou or moose, take the antler out and leave the animal. We could be encouraging some people to do that.*

NPS Response: As stated by ADFG, the State and federal government have regulations in place that prohibit wanton waste of animal meat. Before antlers or horns of an animal can be taken out, all of the edible meat needs to be packed out first. Furthermore, until October in GMU 23, all of the animal meat on the legs or ribs must stay on the bones.

NWARAC3: *I am not concerned much with the eligibility restrictions in Alternative D, which are good, but the required permits bothers me. I move to write a letter to adopt Alternative D without required permits. (Motion passed unanimously.)*

NPS Response: The NPS agrees with eligibility restrictions in Alternative D and has selected a modified Alternative D with a requirement for permits or other written authorization from the area superintendent after consultation with the appropriate SRCs and/or RACs, and as appropriate, tribes and ANILCA corporations. This would not require the subsistence user to obtain an individual collecting permit, but they must have a copy of the written authorization provided to the local rural residents or be knowledgeable of its contents.

SCRAC1: *I didn't, to a certain extent, didn't even realize this (NPS regulation prohibiting collections) existed, and I think any kind of permit system that you put in (effect) is going to make an awful lot of rural residents as illegal people. It's not like I'm going out and harvesting a connex load of antlers or a truckload of birch. If I just happen to see this nice little birch that would be perfect for carving some wooden spoons, and when I went out I didn't have any intention that day when I cut it, (then) so why would I go get a permit ahead of time?*

NPS Response: These actions are currently illegal. New regulations would legitimize the ongoing practice in a flexible manner. We think we can achieve this balance with selection of a modified alternative D, as described in the decision, without causing hardship on local rural residents.

SCRAC3 & AI-1: *Use the eligibility restrictions in alternative C, and the reason for that is it allows the subsistence users (access to resources where they have C&T) – and the other conditions under alternative B.*

NPS Response: The NPS recognizes this as new variant of the various alternatives. The South-central RAC prefers to have some restrictions on who can collect resources in areas. At the same time, due to concerns about rural residents becoming illegal collectors, they prefer no permits. The NPS had decided to select a modified Alternative D under which eligibility to collect is restricted to those with C&T for each species in each GMU or subunit and permits or other

written authorization from the area superintendent is required. The superintendent would also consult with the affected SRCs, RAC, and as appropriate, tribes and ANCSA corporations.

SPRAC1: *It's customary from long time ago before you and I were here, to pick up items here or there as part of the subsistence way of living at that time. Now we are in a modern world and having to go through books with regulations made by others and follow these rules when we had already broken them before this regulation was even being considered. If NPS goes to an elder's home and inquires about a piece of bone they collected, they are not going to understand the concern.*

NPS Response: The NPS understands your concern, which is why the NPS is addressing the issue with a proposed plan of action and Alaska-specific regulations to allow subsistence collections in areas where subsistence uses are authorized under ANILCA titles II and VIII. The NPS also recognizes that these practices have long occurred. These actions are currently illegal; however, new regulations would legitimize the ongoing practice in a flexible manner.

SPRAC2: *In appendix C for Possible Management Conditions for Collections, condition number 4 reads that one could not collect any antlers or horns still attached to the skull. I don't think that should be the intent, the intent is not to have a sale of a handicraft with these antlers or horns still attached. The way we find and remove these shed or discarded items is often attached to the skull.*

NPS Response: The NPS intent with the draft language in appendix C condition #4 is to prevent the sale of trophy or European mounts from items collected in the field. These would not fit the definition of a handicraft. We agree that many antlers or horns found in the field would be attached to the skull and would most likely need to be removed intact before worked into a handicraft that is not attached to the skull. The final regulatory language would be crafted to address this distinction.

SPRAC3: *Would the new regulations cover the collections of marine mammal parts or fossils on NPS lands?*

NPS Response: No, the EA lists on page 2-2 those items *not* considered for collections under this proposed action: parts of marine mammals, migratory birds, threatened or endangered species, fossils, and archeological or historical items. Only ANILCA-managed wildlife resources and plants are considered in this proposed action.

SPRAC4: *I thought ANILCA specifically said subsistence activities will be allowed. Well, this (collections and uses) is a subsistence activity, so why do we need all this?*

NPS Response: It was determined that the NPS definition of subsistence uses in 36 CFR 13.420 did not overcome the prohibition in 36 CFR 2.1. The way we have addressed this for other issues in Alaska's ANILCA NPS-managed areas is with specific regulations in 36 CFR Part 13, many of which address subsistence in Alaska. Also, we make decisions based on a public process as outlined in the National Environmental Policy Act, which is a Federal requirement.

WIRAC1: *I prefer to see the Subsistence Resource Commissions all discuss this and then the Park Service allows the RACs, Eastern Interior and especially the Western Interior RACs, to comment in the fall cycle, which would be outside the 60-day comment period.*

NPS Response: The NPS already extended a 60-day comment period from April 7 until May 3, which is unusual for an EA. Because this is a two-step process with an EA and then the draft regulations, the NPS will proceed with a FONSI and provide additional comment opportunity during the regulations phase in the future. The selection of the Modified Alternative D includes consultation with the affected SRCs, RACs, and as appropriate, tribes and ANCSA corporations.

NPCA1 & AKA1: *National parks are intended to preserve the naturally occurring environment complete with all the parts left behind when animals die or shed their antlers, for the enjoyment of present and future generations.*

NPS Response: We generally agree with NPCA that parks are intended to preserve the naturally occurring environment; however, the Alaska National Interest Lands Conservation Act (ANILCA) modifies management of Alaska's National Park System units for some uses and users. ANILCA allows a number of consumptive uses of resources, which are generally not allowed when compared to National Park Service (NPS) lands in the other 49 states. Title VIII "Subsistence Management and Use" of ANILCA is an example. The ANILCA §801 (4) invokes Congress' constitutional authority "...to protect and provide the opportunity for continued subsistence uses (emphasis added) on the public lands by Native and non-Native residents;" Another example of an allowed consumptive use is that of sport hunting as allowed by §1313. Thus a number of the allowances in ANILCA Title VIII and in other sections allow activities that are not generally allowed in most NPS areas in the other 49 states. In practice and regulation the NPS has allowed the collection of plant materials in two NPS areas since the 1980s to make and sell handicrafts as customary trade. Thus we find evidence to allow the opportunity to collect horns, antlers, other animal parts, and plants within the framework of the law. Furthermore, the NPS decision restricts eligibility for collections such that it is unlikely that the biotic environment or visitor enjoyment would be diminished. A mechanism exists to restrict collections by not opening sensitive areas from the outset, by issuing permits or other written authorizations describing authorized activities and locations and various collection limits, and to reduce areas open to collections if authorized activities exceed identified thresholds.

NPCA2: *ANILCA does not allow for the collection and sale of animal parts.*

NPS Response: The NPS disagrees. ANILCA allows for subsistence uses including the making of handicrafts from animal parts for personal or family use, to barter, or to sell as customary trade. We do not think ANILCA reaches so far as to allow sale of raw unworked materials from NPS-managed ANILCA areas. ANILCA § 803 defines the term "subsistence uses" as provided in the EA pages 5-6.

The term "fish and wildlife" is defined in ANILCA §102 (17) and means:

Any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, non-migratory or endangered bird for which protection is also

afforded by treaty of other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, **and includes any part, product, egg, or offspring thereof, or the dead body or part thereof** (emphasis added).

Additionally, the term “take or taking” is defined in ANILCA §102 (18):

as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect (emphasis added), kill, harm, or attempt to engage in any such conduct.

The law intended that “subsistence uses means the customary and traditional use of wild, renewable resources” and were to be authorized in specified areas, (see list in EA at page 3-1). The definition of “customary and traditional use” is defined in 50 CFR 100.4 as:

“a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. This use plays an important role in the economy of the community.”

NPS finds that subsistence uses can include collecting naturally shed or discarded animal parts and plants (wild, renewable resources) and then making them into handicrafts, which may be used for personal or family purposes, bartered, or sold as “customary trade”. An example of this is the long standing allowance for such use of plants materials in Gates of the Arctic National Preserve and Kobuk Valley National Park (36 CFR 13.1006 and 13.1504). NPS undertook this Environmental Assessment (EA) to carefully explore these requests because we have an NPS regulation at 36 CFR 2.1 (a) (1) in effect, which broadly prohibits some of these activities. If these activities are to be allowed the prohibitions in 36 CFR 2.1 (a) (1), must be modified by adding or amending Alaska-specific regulations in 36 CFR 13..

***NPCA3 & DCC2:** Discovering antlers, horns and bones in wild places, where they were left naturally by wildlife, elicits a great deal of excitement and joy for park visitors. People usually stop and spend significant time with such a treasured find. It would be a loss to visitor experience if they diminish or disappear. It is an experience not easily found in the Lower 48 states or on other public lands in Alaska (other than Alaska State Parks where collecting is prohibited) and is a part of what makes Alaska’s national parks exceptional.*

NPS Response: The NPS agrees that there is the potential of some “loss of visitor experience” to some visitors where NPS-qualified local rural residents are authorized to make collections to make and sell handicrafts, but this potential is not dissimilar from the existing loss of visitor experience that occurs because ANILCA Title VIII allows the taking (i.e. hunting and trapping) of wildlife species. When a hunter takes an animal, other users lose the opportunity to view it, or in a preserve, to take it themselves. Congress understood it was directing the NPS to manage NPS areas in Alaska in specified ways and differently than in the other 49 states. Also, not all NPS-managed areas in Alaska allow for subsistence uses. No change in visitor experience should be encountered in the former Mt. McKinley National Park part of Denali National Park, Glacier Bay National Park, Katmai National Park, Kenai Fjords National Park, Sitka National Historic Park, and Klondike Gold Rush National Historic Park.

NPCA4: *Arctic and subarctic ecosystems are frequently nutrient poor and antlers can provide a significant source of calcium for small mammals.*

NPS Response: The NPS agrees that antlers and bones can provide a significant source of calcium for small animals. Antlers provide this ecosystem benefit, among others, which are described on pages 3-45 to 3-46 of the EA. The loss to the ecosystem will be both random and minimal, and Congress contemplated such uses when they wrote Title VIII of ANILCA, which authorized subsistence uses of a variety of resources (i.e. wildlife, fish, plants, timber). See also responses to DCC-3 and Individual#8-2nd comment.

NPCA5, SCAC1, DCC6, WBA3, & Individual #4-1st comment: *We don't see the need, especially since so much land is already available (for collections). Other lands available for collecting in the state of Alaska include:*

- *BLM land – 85 million acres*
- *US Forest Service land – 22 million acres*
- *General State land – 97 million acres*
- *Native village and corporation land – 42 million acres (Alaska natives only)*

NPS Response: Though there are other lands, both federal and State owned, from which these resources are and can be collected, in many instances NPS areas are the most locally available lands. Congress intended to and did maintain the “opportunity” for subsistence uses to continue on federal public lands in Alaska (ANILCA §801). Currently, because of the NPS regulation 36 CFR 2.1 (a) (1) this opportunity is more limited than subsistence users wish it to be and thus their requests for change. The analysis of this request indicates that impacts on resources and visitor enjoyment can be mitigated through permits and other written authorizations with specified conditions for the subject collections.

NPCA6 & SCAC4: *NPCA finds collecting illegal for the following reasons:*

1. *Clearly, handicrafts may only be made from the “byproducts”. The primary purpose of taking the animal must be consumption. The making and selling of handicrafts is secondary. Collecting horns and antlers in and of themselves is clearly illegal.*
2. *Personal conversation with NPS staff indicated one of the reasons NPS finds collecting legal is because the definition of “take” includes collecting.*

ANILCA Sec. 102(18)

The term “take” or “taking” as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Nonetheless, same as above, the entire animal must be “collected” for the primary purpose of consumption. If the animal is not taken for food, then the nonedible byproducts may not be collected. The expanded definition for “collect” in this EA is wrong.

3. *The EA also focuses on the term “customary trade” and the locals subsistence boards’ suggestion that the term be broadened to include the making and selling of handicrafts. But this misses the point. NPS cannot create a definition by regulation that would otherwise conflict with the plain wording of the authorizing statute. Doing so would circumvent the clause requiring that any items collected for making and selling a handicraft be taken from an animal already killed for personal or family consumption. Circumventing this would render this clause meaningless.*
4. *Additionally, the EA implies NPS should allow collecting because ANILCA requires opportunities for subsistence and “to cause the least adverse impact possible on rural residents”. NPCA fully supports subsistence, but it must be conducted in the bounds of what is legal. It is a rare instance when park resources are allowed to be sold. Would NPS let local rural residents sell caribou meat to restaurants simply because they requested it, or because it would help them pay for the high cost of heating fuel? Of course not. Similarly, park horn and antlers may not be collected and may not be sold.*

NPS Response: Though similar to NPCA-2, this comment further elaborates that “the entire animal must be collected for the primary purpose of consumption. If the animal is not **taken for food** (emphasis added), then the nonedible byproducts may not be collected.” Additionally it is suggested that NPS has expanded the definition of taking. We disagree with the conclusion that ANILCA does not allow for the proposed collection and uses of animal parts for the reasons provided in the response in NPCA-2.

As further explanation, customary trade includes the exchange of furs for cash where the animal is not eaten, such as furbearing animals like wolves and wolverine taken primarily for their pelts. Other portions of those animals, such as the meat, can be left behind as the salvage of those portions of the animal is not required by regulation. Conversely, for ungulates the “entire” animal need not be salvaged; only the edible meat of ungulates is required to be salvaged. Furthermore, ANILCA does not limit the term “consumption” to food, but also includes “*shelter, fuel, clothing, tools, or transportation.*” In 36 CFR 13.420(3) the NPS defines “Customary trade” as limited to the exchange of furs for cash (**and such other activities as may be designated for a specific park area in the applicable special regulations of this part**) (emphasis added), which is what we are addressing with this EA. The NPS proposal is consistent with ANILCA and federal regulatory practice in Alaska.

In regards to the suggestion that the NPS has expanded the definition of taking, again we disagree. The NPS definition has exactly replicated the ANILCA definition at §102 (18) in its Alaska regulations at 36 CFR 13.1.

NPCA7: *If NPS proceeds with this proposal, then NPCA believes new legislation is required, similar to the process used to allow the collection of gull eggs in Glacier Bay National Park.*

NPS Response: ANILCA did not authorize subsistence uses in Glacier Bay National Park, which is why legislation is needed for gull egg collections in that unit. NPS does not intend to propose new legislation to enable the collection of the resources considered in this EA. We do

recognize that to allow such use as described in any of the action alternatives (B, C, or D) or any action that would be a combination of them would require changes in NPS regulation in 36 CFR Part 13, as has been expressed in the reply to other comments.

NPCA8: *ATVs have been found to be “traditionally employed” in Wrangell-St. Elias and in the Cantwell region of Denali and can therefore be used for subsistence purposes. In WRST especially, where subsistence users are allowed to go almost anywhere and are not confined to hardened trails, this new program adds one more reason for folks to be out on ATVs. We are concerned that the ability to collect antlers may increase ATV use, which will only add to the degradation of the landscape.*

NPS Response: The NPS Modified Alternative D requires various levels of active management, such as the issuance of permits or other written authorizations with terms and conditions to avoid the degradation of an area’s landscape. Though ATVs have been found to be traditionally employed in Wrangell-St. Elias (Park & Preserve) and in the Cantwell region of Denali National Park and subsistence users could therefore use ATVs, where authorized and in compliance with established NPS standards, to collect horns, antlers, animal parts, and plants, we think, however, that much of the demand for horns, antlers, and animal parts is satisfied by those who hunt or trap animals and can bring home those items.

NPCA9: *Implementing this new program will take funding and additional staff time to manage permits, and ideally enforcement. It appears there will be no way to follow individual items to see if they are used appropriately, or even used at all. With well over 100,000 residents qualifying to collect (see EA, page 3-1), there is definitely the potential for abuse. While not the intent (nor legal) under this proposal, large scale gathering to manufacture something like antler chandeliers (please see Appendix C) is not out of the realm of possibilities.*

NPS Response: While the implementation of the decision will take funding, staff, management of permits, and potentially law enforcement, we do not envision such efforts being substantial. We envision using existing personnel who are experienced with federal hunting, trapping and fishing programs, and have experience managing similar uses. The NPS through its field offices in the state routinely administer subsistence permits as they are required by regulations for hunting, fishing, and trapping so issuance and management of permits is not new. The NPS is also mindful of the language in the ANILCA Senate Report 96-413, 1979, p.234 where it is stated that “The committee does not intend that ‘customary trade’ be construed to permit the establishment of significant commercial enterprises under the guise of ‘subsistence uses’”. From past experience and observations the NPS thinks that authorizing these activities would at most continue already existing activities in individual homes and villages, especially if raw, unworked material cannot be collected and sold.

NPCA10: *NPCA has no objection to the subsistence collection of plants to make and sell handicrafts. Since plants are so prevalent (especially compared to horns and antlers) we believe this use can be accommodated without impacting visitor experience or park resources. We support Alternative D (mandatory permits and conditions) since this will protect against potential resource damage. Although unlikely collectors would cause damage, it is possible some activities such as collecting birch bark for baskets could damage or kill trees if done in*

excess. It only takes one thoughtless person to cause harm. Instituting permits and conditions from the beginning allows a way to curtail damaging activity should problems occur.

NPS Response: The NPS concurs with the NPCA that permits and conditions can be useful management tools that can help preclude resource damage from allowed uses, including collection of plant and animal materials. The decision provides for permits or other written authorization to protect park area resources and visitor enjoyment of areas.

SCAC2: *There is only slight acknowledgement and no discussion in the EA ... of the possibility that if subsistence collections are implemented a precedent could be set for the national park system as a whole.*

NPS Response: The NPS disagrees with this comment. Subsistence uses are authorized in NPS units in Alaska as specifically authorized in ANILCA Titles II and VIII (and as codified in 36 CFR 13.410), which does not include NPS areas established in Alaska prior to ANILCA or other National Park System areas established elsewhere in the USA.

SCAC3: *What is the definition of "plants"? What is the definition of "plant materials" in the action alternatives of the EA?*

NPS Response: There is no definition of plants or plant materials in NPS regulations. The use of the terms "plants" and "plant materials" is the same as that used for NPS regulations at 36 CFR 13.1006 and 13.1504. In those regulations the term "plant material" is used in the context of "... customary trade shall include the selling of handicraft articles made from plant material taken by local rural residents of the park area." See also 36 CFR 13.485 - Subsistence uses of timber and plant materials.

SCAC5: *The EA maps depicting parks and monuments open to subsistence activities (pp. 1-3, 2-9 to 2-30) indicate that Aniakchak NM, Lake Clark NP, and Denali NP additions, Gates of the Arctic NP, and Wrangell-St. Elias NP are entirely open to subsistence activities. Whether the five units are entirely open or not depends on a determination of where in the units subsistence activities were traditional at the time of ANILCA. Congress accordingly authorized subsistence uses in these five units only "where such uses are traditional" in anticipation of the possibility that the five units could combine traditional subsistence use areas with new traditional national park areas. Despite Congress's intent, the more than four decades since ANILCA the Service has not undertaken the required determinations. ... Subpart F – Subsistence Sec. 13.410 36 Code of Federal Regulations states that subsistence uses are allowed in the five units "Where such uses are traditional (as may be further designated for each park or monument ...)" (Emphasis added). However, designation is not discretionary on the part of the Service, it is mandatory.*

NPS Response: The maps provided in the EA were intended to show general eligibility, not traditional use areas, which would be a much more detailed and extensive map effort.

DCC1 & Individual#8-6th: *Collection of plant material may disturb architectural or cultural resources and potential large scale collection could deface or denude the natural landscape.*

NPS Response: We agree plant collections could disturb cultural resources if collectors are not advised or sensitized to identification of such resource sites. Through mitigating measures the NPS plans to conduct education and outreach to prospective collectors to obviate these potential effects. Superintendents would have the authority to establish collection conditions in permits or other written authorizations, including not allowing collections at or next to sensitive cultural resources and architectural sites like historical buildings or cabins. We do not anticipate, nor would the NPS allow, large scale collections that could deface or denude the landscape. We have not observed large-scale landscape level effects in the Kobuk River National Park where plant collections for the making and selling of handicrafts have been allowed by regulation at 36 CFR Part 13.1504 for the past three decades. Collections would be only by NPS-qualified local rural residents. Furthermore, the collection and sale of raw unworked material would not be authorized. See also response to WRSTSRC1.

DCC3: *Both plant and animal materials provide a valuable contribution to the nutrient substrate on NPS lands, and removal, over time, stands to impact the entire plant-animal community.*

NPS Response: Our analysis does not indicate random and opportunistic collections by subsistence users would result in measureable or significant effects to the plant and animal communities. See also NPS response to NPCA4.

DCC4 & Individual #8-4th: *How will collections be monitored? Alternative C provides for discretionary permitting and Alternative D requires permitting. There appears to be no provision for monitoring collection. If monitoring is inadequate, the possibility of commercial level collection could damage park service lands and exceed the subsistence mandate of ANILCA.*

NPS Response: Where resource concerns may occur, the superintendent (after consultation with the appropriate SRC and/or RACs, and as appropriate, tribes and ANILCA corporations) would monitor collections through permits or other written authorizations. The NPS has not required permits for collections of plant material in Kobuk River National Park or the Kobuk River Unit of Gates of the Arctic National Preserve, and we have not observed any resource problems after more than three decades. The NPS is considering adding questions about animal material harvests for personal use, barter, and the production and sale of handicrafts as well as plant harvests for handicraft production for sale in periodic community harvest surveys conducted in concert with ADFG. Furthermore, we have learned through this process that many rural residents thought ANILCA already allowed such collections and uses, and they have been collecting these materials before and after establishment of these areas without apparent adverse effect to resources in parks, monuments, and preserves. Furthermore, because this action would not allow the collection and sale of raw, unworked material, the NPS does not think obvious damage to NPS areas is likely to occur.

DCC5: *How will materials, which are gathered for the purpose of making into handicrafts, be monitored to ensure that the raw item is substantially altered prior to trade, barter or sale? The document states that at the discretion of the superintendent possible management conditions for collections in Appendix C could require a report of materials collected, the horns and antlers*

may not be attached to any part of the skull, collections would be limited or areas could be closed to collecting. There is no provision to monitor the final product.

NPS Response: First, an item must meet the definition of a handicraft (50 CFR 100.25) to be legally sold. The NPS has intercepted and successfully prosecuted persons who have removed sheep horns attached to skulls and who later tried to sell them as trophies. The NPS thinks these collections and uses would not rise to such a level to require the NPS to mark and monitor potentially collected materials in the field or to make periodic samplings and measures in the field. Congress did not intend subsistence uses to become “significant commercial enterprises” (see 50CFR 100.4). The NPS could limit areas opened to collections, thereby protecting known sensitive resources and areas. If in the future a resource appears to become depleted or other park purposes impacted, then the NPS could invoke its closure authority to protect resources and visitor enjoyment in such locations pursuant to NPS regulations in 36 CFR.

WAK1, Individual #5-2nd, & Individual #8-3rd: *Harvest of animal parts will inevitably be concentrated in the easiest areas to harvest and will effectively create barren regions, similar to floating by the large clear cut areas of Southeast Alaska. Visitation to lands managed by the NPS is well documented as being concentrated in easy access corridors, including roads, historical trails, rivers, lakes, and commercially developed regions, which would alter character and scenic value of lands along these corridors.*

NPS Response: The NPS agrees that the easiest areas to detect and collect shed or discarded animal parts would be along heavily used travel corridors. Mitigating measures adopted in the decision authorize superintendents to prohibit collections from within view or a specified distance from roads, trails, landing strips, rivers, and commonly traveled coasts of lakes or seas. Collections would only be authorized for NPS-qualified subsistence users of NPS areas, and these subsistence users often disperse into the country to hunt, fish, and collect edible plants and materials that are useful to their subsistence way of life. The bulk of the visitors to NPS areas use the developed zones, which does not always hold true for subsistence users.

WAK2: *As a partner with the Park Service, it will be awkward to explain to future visitors that only some groups are allowed to degrade the park land legally. Then it will be insulting to mention that they are doing it for commercial gain rather than some cultural or spiritual reason.*

NPS Response: Congress determined in ANILCA that they wanted to provide the opportunity for subsistence uses to continue for local rural residents, which includes subsistence hunting and trapping and the making and selling of handicrafts as customary trade. See also responses to NPCA2 & 3.

WBA1: *Allowing the collection and removal of shed antlers and discarded bones of animals in Park Service Lands in no way can be construed to be preserving “unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations” since these resources will be gone – removed.*

NPS Response: The NPS disagrees with this comment because the resources to be collected are wild and renewable. Also, local rural people and tribes have informed us that they have collected

shed and discarded animal parts they find useful in recent years and for past centuries or millennia for personal or family uses, customary trade, or barter. They did not know about the NPS national regulation prohibiting such collections and uses, or they thought ANILCA allowed for these traditional and customary uses. In many cases local rural residents have continued the practice of collecting these resources to make utilitarian or artistic items for personal or family uses, to barter, to trade, or to sell since before and after ANILCA. Lastly, our analysis of the impacts to the subject resources and visitor enjoyment did not show any impacts greater than minor from any of the alternatives. If major impacts are suspected in sensitive areas, then the NPS could establish conditions for collecting in permits or other written authorizations to avoid or correct the situation, including not opening or later closing areas to collections as needed. See also NPS response to NPCA1.

WBA2: *The northern environments including the northern Parks contain a limited amount of calcium, which is critical to the survival of most if not all animals. Antlers and bones are a major source of the available calcium to the critters that make up this ecosystem, and finding of a shed antler is like discovering a treasure to the animals needing calcium. This is information I have often given to the clients I take into the wilderness of Alaska. It helps convince them to leave these finds where they lay instead of taking them home as souvenirs as they often desire. ... These resources are important and a critical part of the natural fabric of the ecosystem you manage. Without them the park is incomplete.*

NPS Response: Subsistence collections of shed or discarded animal parts would not be allowed by any persons who are not NPS-qualified local rural residents. These wild renewable natural resources have been collected and used opportunistically by local rural residents “since time immemorial” and in recent years, and no apparent adverse impacts has been observed or reported. We do not find the natural fabric of the NPS areas has been adversely affected, nor do we predict any impairment to park ecosystems. We appreciate and advise the commenter to continue to inform non-local visitors to leave antlers and bones where they lay in NPS areas. See also NPS response to NPCA4.

WBA4: *When we take people to the Parks, finding antlers and bones is always exciting and a teachable moment, which is in keeping with the intent of the Parks Service’s mission to educate and inspire. These resources add an aesthetic beauty and interest in the landscape.*

NPS Response: We do not think new regulations would result in a noticeable difference in Alaska NPS area conditions from the recent past or current conditions because the collections and uses would be random, opportunistic, and small-scale. In an attempt to mitigate the potential to adversely affect the majority of the visiting public, superintendents would have the authority to establish terms and conditions for collection, such as to prohibit collections of items within view of major travel corridors such as roads, landing strips, heavily used trails, rivers, and coasts of lakes or oceans.

SNSU1: *Appendix C ... contains “Possible Management Conditions for Collections” that could be attached to a permit. ... Collectors are prohibited from collecting horns or antlers attached to any part of the skull or make to represent a big game trophy. This condition appears to apply only to Alternatives C & D and represents an unnecessary intrusion into the creative process.*

NPS Response: This condition would apply to all action alternatives. The NPS has used this condition in a manner consistent with State of Alaska and Federal Subsistence Board regulations. The collection of horns and antlers may occur in the field, but the buying, selling, or bartering of a big game trophy would not be authorized.

SNSU2: *Another condition (in Appendix C) states that sales may not constitute a significant commercial enterprise with no definition as to what level of sales that might be.*

NPS Response: The term “significant commercial enterprise” comes from language in the Congressional intent for subsistence uses of NPS and other areas established by ANILCA (see also definition of “customary trade” in 50 CFR 100.4). If needed, this term could be defined in regulations promulgating the subsistence uses of shed or discarded animal parts and plants to make handicrafts for sale. In general, a significant commercial enterprise involves the hiring of employees, whereas personal or family production of items for sale would not constitute a significant commercial enterprise.

SNSU3: *There are several references in the EA regarding the Chisana caribou herd and indicating that it is closed to harvest. That has recently changed and there may be an extremely limited hunt (7 permits) as soon as this fall (2012). The potential impact of that hunt on the landscape is unknown; however, it is reasonable to assume that more people will be attracted to what is otherwise an area seldom frequented by people in recent times.*

NPS Response: We agree with the comment. The NPS is aware of this recent change, which occurred after printing of the EA. We do not think this is a significant change to warrant a change in the alternatives or the analysis of impacts.

SNSU4: *In Chapter 3, Affected Environment 3.7.11 WRST Recreational and Scenic Values, according to the EA, “This park and preserve has one of the largest concentrations of mountain sheep in the world.” Dall sheep (*O. dalli*) is the species found in Wrangell-St. Elias. Mountain sheep is a generic term that can be applied to other wild sheep species, for example Bighorn sheep (*O. Canadensis*).*

NPS Response: We know the species of mountain sheep in Wrangell-Saint Elias National Park and Preserve (WRST) is *Ovis dalli*, but we also know the concentration of *O. dalli* in WRST rivals the concentration of mountain sheep anywhere else in the world. Therefore the statement in the EA is correct.

SNSU5: *Section 3.3.8 Economic Conditions in Local Rural Communities near WRST, Slana/Nabesna has been left off of Table 3.21 (Summary of Community Conditions for Local Communities near WRST).*

NPS Response: The comment is correct, and this is rectified in the errata for the EA.

Individual #1-1st: *Using RACs (Regional Advisory Councils) to consult with superintendents would be helpful for preserves that don't have SRCs ... GLBA, YUCH, BELA, etc.*

NPS Response: The NPS agrees and has selected Modified Alternative D to include consultation with RACs for subsistence collections and uses in NPS preserves.

Individual #2-1st: *I can see that there may be some narrow circumstances where very limited collection of shed or discarded animal parts (horns, antlers, and bones) and plants would be acceptable. And so, a carefully implemented and managed Alternative D may be acceptable provided that the existing prohibitions remain in place for Denali National Park and Preserve and in areas of the NPS Alaska Park units that are designated wilderness.*

NPS Response: Subsistence collections and uses of wild renewable resources would only be authorized in Alaska NPS areas as described in ANILCA Titles II and VIII. Areas not authorized for subsistence collections are the original Mt. McKinley National Park part of Denali National Park, Glacier Bay National Park, Katmai National Monument (now Park), Kenai Fjords National Park, and Sitka and Klondike Gold Rush National Historical Parks. The Denali National Park additions and Preserve authorize subsistence uses by qualified local rural residents (mostly of Cantwell, Nikolai, Minchumina, and Telida), and collections would be allowed in these areas. Subsistence uses are authorized in designated wilderness areas throughout Alaska NPS areas, so wilderness designation would not be a filter for excluding subsistence collections and uses.

Individual #2-2nd: *When hiking across the backcountry wilderness it is a real treat to come across an antler, horn, or other "natural" remains. It often tells a story, as when two sets of moose or caribou antlers or ram horns are interlocked. Running across these "discoveries" is memorable, and an important part of a wilderness experience. Collection of a pair of locked antlers or horns should not be allowed.*

NPS Response: See response to NPCA3. The NPS superintendents will have discretion whether to prohibit the collections of interlocked antlers or horns as a mitigating measure.

Individual #2-3rd: *I don't know if this proposal includes bears, but the collection of bear remains, especially the claws, should not be allowed.*

NPS Response: The NPS will coordinate with the State of Alaska and Federal Subsistence Board with regards to collections and uses of bear parts. We recognize that recent changes have been made in Federal Subsistence Board regulations regarding bear hides and claws used in handicrafts.

Individual #2-4th: *The word "plant" includes trees, and I don't think it is necessary or desirable for trees to be harvested within park units.*

NPS Response: The subsistence uses of timber may be authorized pursuant to a permit under 36 CFR 13.485. The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the gathering of dead or downed timber for firewood shall be allowed without a permit in park areas where subsistence uses are allowed. The proposed regulation would address the use of plant parts or whole plants to make handicrafts for

sale. It is already permissible for subsistence users to collect plant materials for personal or family uses.

Individual #2-5th: *I suggest a permitting system (in the event collecting is allowed) include, but not be limited to, the following:*

- *The number of permits should be kept to a very low level,*
- *“Collecting” should not be allowed in Denali Park and Preserve (including the “new” additions).*
- *The capacity (funding, etc.) exists for NPS to develop and manage a permitting system sufficient to protect the natural resources and quality of visitor experience of NPS park units,*
- *A customary and traditional use finding is performed for each area open to collection permit,*
- *The “local qualified resident” eligibility area should be reduced in size, such that collection activity is open only to those subsistence residents living in close proximity to the respective park units open to collecting, to help ensure that the use of NPS land is a last resort rather than the a first resort, and*
- *NPS is careful to structure the permitting system so that it does not set a precedent that cannot be reversed or curtailed in the future in the event that resource damage occurs or level of demand becomes unmanageable.*

NPS Response: The NPS appreciates the list of permit system considerations and conditions. We think the selected modified Alternative D addresses many of the concerns, especially to limit the eligible persons for collection of wild renewable resources to those who are most closely associated with an area. The NPS plans to follow the Federal Subsistence Board C&T findings for harvest of species. As noted above in Individual #2-1, Denali National Park additions and Preserve are areas authorized for subsistence uses, so collections may be authorized in these areas and will require a permit or other written authorization. It is conceivable for Denali National Park and Preserve that future park special regulations may not open certain high use or sensitive areas to collections. With regards to a permit system, some NPS Alaska units already administer subsistence harvest permits for fish and wildlife, so adding another category for materials collections is not out of the question.

Individual #3-1st: *[36] CFR 13.485(b) allows for the noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials, including dead and down timber for noncommercial subsistence use. Subsistence uses of horns, antlers, bones, and plants as tools and culturally appreciated handicrafts are acceptable. A line is crossed with commercial use as handicrafts for retail sale and is inconsistent with the intent of subsistence provisions in the Alaska National Interest Lands Conservation Act and its implementing regulations.*

NPS Response: We think the commenter has narrowly construed the interpretation of ANILCA § 803. We note also regulations already exist for Kobuk River National Park and the Kobuk River Unit of Gates of the Arctic National Park “for customary trade to include - in addition to the sale of furs for cash - the selling of handicraft articles made from plant material taken by local rural residents” of the area. See also responses to NVK1 and NPCA2.

Individual #4-2nd: *Over the years as a law enforcement park ranger, I have discovered that people were poaching trophy animals on their winter range. In the spring, they'd return and retrieve the heads with antlers or horns attached of the animals they had poached. If wildlife officers stopped and questioned them, they would simply say that the animals must have died of natural causes and they were lucky to find the antlers and horns.*

NPS Response: Standing NPS regulations at 36 CFR 2.1 prohibit the "Possessing, destroying, injuring, defacing, removing, digging, or disturbing from its natural state; (i) living or dead wildlife or fish, or the parts thereof, such as antlers or nest." Without regards to poaching and wanton waste of wildlife, the mere removal of horns and skulls without written authorization would be illegal. We think it is highly unlikely that subsistence hunters would kill an animal to remove its horns or antlers and leave the edible meat behind.

Individual #4-3rd: *There was another case where a pilot was flying inside the National Park and observed a dead trophy Dall sheep, landed and cut off the head. The trophy head was later being used by a taxidermist to make duplicates and being sold at sporting events for a large sum of money. The trophy head was seized.*

NPS Response: Again 36 CFR 2.1 applies as do other laws and regulations. The removal from the park of the ram head was illegal. The general public would not be allowed to collect and sell handicrafts from shed or discarded animal parts, only NPS-qualified local rural residents could do so. Furthermore, the sale of a trophy mount or head is not part of the definition of a handicraft, which will be addressed in definitions for the subject regulations, should we progress to that step. Also, the use of aircraft for subsistence purposes is also generally not allowed in parks and monuments, except in limited situations provided for in 36 CFR 13.450(b).

Individual #4-4th: *If the park service allows for the collection of horns or antlers, this will only establish an incentive to collect for profit.*

NPS Response: We appreciate the law enforcement concern; however, we are aware some level of the subject collections have occurred for many decades before and the few decades after ANILCA for the purposes of making utilitarian and artistic items for traditional cultural practices. We think violations of any rule can occur, but to minimize these occurrences, we think the subject rule should be accompanied with a wide and effective public educational effort. See response to SCRAC2.

Individual #5-1st: *If in any NPS areas the caribou are on calving grounds, collecting during calving season would create unnecessary impacts and stress on caribou. Recommend restricting collections on calving grounds during that season.*

NPS Response: The NPS appreciates and may consider this recommendation as a possible mitigating measure or permit condition. The notion of avoiding collections in critical wildlife habitat during sensitive seasons may also apply to other species.

Individual #6-1st: *Does the NPS in Alaska have the law enforcement wherewithal to contend with the potential molestation of nature that this action may inadvertently provide for?*

NPS Response: The NPS in Alaska has already apprehended individuals who have tried to remove trophy animal heads with horns and antlers attached to the skulls to sell at public shows. We have not detected illegal collections of shed or discarded animal parts or plant materials by NPS-qualified subsistence users, but several have informed us they did not know such collections were illegal because they thought ANILCA Titles II and VIII provided for these activities. None of the analyses predicted more than minor impacts to various resources and values from any of the alternatives, therefore the proposed subsistence collections and uses of shed or discarded animal parts and plant materials would not result in molestation of nature. We do not think this proposal would result in a noticeable increase in law enforcement cases.

Individual #6-2nd: *What research are you relying on to inform your decisions regarding the impacts of removing shed or discarded items from natural systems?*

NPS Response: EA sections 3.4 Wildlife and Habitat (pp 3-45 to 3-49) and 3.6 Terrestrial Vegetation (pp 3-51 to 3-56) describe research on the importance of shed or discarded animal parts to wildlife and vegetation. The low level of pre-ANILCA and post-ANILCA collections and uses of such materials, where authorized or practiced to date illegally, have not yet presented any noticeable adverse impacts to wildlife and vegetation.

Individual #7-1st: *Some raw materials that haven't been handcrafted should also be legal for sale. If raw materials must be handcrafted before sale, [then] you discriminate against most non-natives. I feel some raw materials of the common variety could be made and a permit system implemented based on the legal limit.*

NPS Response: The NPS Regional Director made a decision not to allow the collection and sale of raw unworked materials from NPS lands in Alaska, so the sale of raw unworked materials is outside the scope of this proposal. We have seen where in the past this practice has resulted in the denuding of areas in Alaska of antlers for sale to Asian markets. Though a permit system with reasonable limits could obviate these impacts, most local rural residents strongly expressed an aversion to needing collecting permits for such opportunistic collection activities. Subsistence uses are authorized for all local rural residents of NPS areas; such uses are not limited to Alaska Natives.

Individual #8-1st: *The collection of animal parts and plants is a proposed activity that provides a high potential of resulting in a negative impact to the human environment due to the significant ecological importance of horns, bones, and plants as nutrient sinks. ... The proposal must be considered within the context of an Environmental Impact Statement, a FONSI finding is inappropriate.*

NPS Response: The NPS disagrees with this comment for several reasons. First, the projected impacts from the alternatives on all of the resource topics were found to be minor; none of the impacts approached a significant level. Secondly, whole live animals are removed for subsistence and sport hunting purposes in parks and preserves where these activities are authorized by ANILCA, and no significant adverse effects have been shown. Lastly, horns are made mostly of keratin and are not known to contain nutrients that are important to plants or

animals. See EA page 3-45. Because significant impacts are not expected under any of the alternatives, an EIS is not required.

Individual #8-2nd: *The soils in Alaska are poorly developed and the mineral nutrient "pool" is very limited. Horns, bones, and antlers provide a significant concentrated source of nutrients for a wide range of wildlife, both directly and indirectly. See (Sutcliffe, A.J., and Blake Jr. W. "Biological activity on decaying caribou antler at Cape Hershel, Ellsmere Island, Nunavut, high Arctic Canada", Polar Record (2000), 36: pp 233-246). "Where nutrient-rich decaying animal bones are present, it is not uncommon to find growing upon them a luxuriant vegetation of mosses and vascular plants, together with less spectacular algae and lichens, which show up in striking contrast to the barren ground around them."*

NPS Response: The NPS appreciates the reference, but we find the comment not compelling for a couple of reasons. First, none of the NPS areas under consideration are considered to be of the "high arctic", which is defined as follows: **High Arctic:** *n* (Placename) the regions of Canada, esp. the northern islands, within the Arctic Circle Collins English Dictionary – Complete and Unabridged © HarperCollins Publishers 1991, 1994, 1998, 2000, 2003. *According to the Encyclopedia Britannica*, the Arctic can be divided into the Low Arctic and **High Arctic**, according to various environmental and biological characteristics. Tundras are most common in the Low Arctic, and polar barrens are dominant in the **High Arctic**. The northern capes of Ellsmere Island and the northern portion of Greenland are truly high arctic deserts with an extreme climate, which is unlike the NPS Alaska areas. Secondly, as noted in the previous comment response, live animals are taken whole from areas where hunting is authorized with no apparent ecosystem malfunction, and not all antlers and bones would be removed from an area by any stretch of imagination. We find that bone and antler material would still be readily available in the NPS Alaska park environments because not all animal parts would be found and collected for subsistence purposes.

Individual #8-5th: *The NPS lacks a management structure to effectively manage the consumptive take of plant and animal parts in Alaska. One only has to refer to the monumental challenges the NPS is facing regarding the for profit use of subsistence harvested game. The NPS lacks the infrastructure to document, tag, and track plant and animal parts removed from the parks.*

NPS Response: If the NPS finds there could be resource effects or sensitivity with regard to other public uses and enjoyment of NPS areas where this subsistence activity may be authorized, then the area superintendent would specify conditions and locations for collections in permits or other written authorizations to control collections and gather information on materials removed or use closure authorities pursuant to NPS regulations in 36 CFR. See also EA appendix C and response to DCC5.

Individual #8-7th: *Currently, the request for consumptive harvest of plants and wildlife are very few. Indeed, only two requests initiated this NEPA review. On two occasions, the NPS has issued permits for the collection of plants, on a case by case basis. ... A blanket statewide authorization would circumvent a more thorough, site specific, review process.*

NPS Response: SRCs and RACs all across the state supported and echoed similar concerns expressed by the Gates of the Arctic NP SRC and the Eastern Interior RAC. No permits are required for the collection of plant materials from Kobuk Valley National Park or the Kobuk Preserve unit of Gates of the Arctic National Preserve to make and sell handicrafts, but the activities are authorized as customary trade as in the sale of animal furs for cash. See also response to EIRAC2.

APPENDIX B

DETERMINATION OF NON-IMPAIRMENT

A determination of non-impairment is made for each of the impact topics carried forward and analyzed in the environmental assessment (EA) for the NPS preferred alternative, except those topics for which an impairment finding is not needed. The NPS selected alternative is Alternative D of the EA with minor adjustments. This determination reviews the level of impacts for each impact topic. Chapter 1 of the EA references ANILCA Sections 201 and 202, which sections describe the purposes for which new and expanded units of the National Park System in Alaska are to be managed, including the allowance of subsistence uses. These purposes were used as a basis for determining if a resource is:

- Necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the affected NPS areas in Alaska, or
- Key to the natural or cultural integrity of the NPS areas in Alaska or to opportunities for enjoyment of the areas, or
- Identified in the NPS area general management plans or other relevant NPS planning documents as being of significance.

Impairment findings are not necessary for visitor experience, socioeconomics, public health and safety, environmental justice, land use, and park operations, etc., because impairment findings relate back to park resources and values. These impact areas are not generally considered to be park resources or values according to the Organic Act, and cannot be impaired the same way that an action can impair park resources and values. For this EA the NPS area resources and values subject to the impairment analyses are: cultural resources, recreational and scenic values, subsistence uses, terrestrial vegetation, wilderness character, and wildlife and habitat.

IMPACT TOPICS

Cultural Resources

The EA judged impacts to cultural resources to be overall minor for Alternative D with minor positive effects on ethnographic resources and practices. Furthermore, the potential for impacts to cultural resources will be further reduced with mitigating measures including a public educational program to clearly identify who, where, and what can be collected for subsistence uses. The NPS selected alternative uses the more restricted eligibility requirements of Alternative

D and requires an area superintendent to implement collecting permits or other written authorizations after consultation with affected subsistence users and other key stakeholders where resource conditions warrant such controls. For these reasons, the potential of the NPS selected alternative would result in minor adverse and beneficial effects to cultural resources and the effects would not result in impairment.

Recreation and Scenic Values

Most NPS areas in Alaska with authorized subsistence uses were also established to preserve scenic and wilderness recreational values as described in chapter 3 of the EA. The impacts from Alternative D on these purposes and values were both found to be minor and adverse. Some commenters on the EA indicated they thought the impacts from subsistence collections of shed or discarded animal parts would greatly reduce their enjoyment of these areas because the occasional discovery of these items greatly enriched their experience and learning about these Alaska areas. Subsistence users maintained they have been collecting and using these animal parts for decades before and after ANILCA without apparent impacts to ongoing recreational enjoyment of these resources. Mitigating measures and terms and conditions for collections established by area superintendents would reduce potential impacts to scenic and recreational values of affected areas. Therefore, the NPS finds the impacts of the selected Alternative D would be minor and adverse on recreational and scenic values in affected NPS areas in Alaska, and the NPS selected alternative would not result in impairment of recreational and scenic values.

Subsistence Uses

ANILCA Section 101 (c) states it is the "... intent and purposes of this Act consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit (CSU) is established, ... , to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so." ANILCA Title II identifies all national preserves and select national monuments and parks as allowing for subsistence uses. ANILCA Title VIII describes the findings, policy, and definitions of subsistence uses in these CSUs. The EA indicates in a total area of about 43 million acres up to about 75,000 local rural residents would be eligible for subsistence collections and uses of the subject materials from NPS national preserves and a subset of that population to include about 15,000 local rural residents would be eligible for subsistence collections and uses in national parks and monuments. The EA recognizes a small subset of this eligible population would actually collect and use the subject materials for subsistence uses to make and sell handicrafts. The EA judged the effects of Alternative D on subsistence uses to be minor and beneficial, therefore the NPS finds the impacts of the selected Alternative D would also be minor and beneficial to subsistence uses and would not result in impairment to the subsistence uses or purposes for which these areas were established.

Terrestrial Vegetation

Terrestrial vegetation within the NPS areas include a wide range of vegetation types ranging from Sitka Spruce forest in Glacier Bay National Preserve to arctic alpine tundra in Gates of the Arctic National Park, as described in chapter 3 of the EA. The NPS selected alternative would authorize the subsistence collection of plant materials (such as, but not limited to, birch bark, cottonwood bark, spruce roots, and grasses) to make handicrafts, which would have temporary or short term direct adverse effects on vegetation in the affected NPS areas. The collection of some shed or discarded animal parts with high levels of nutrients such as calcium in antlers and bones, could have limiting effects on the growth of certain lichen assemblages in arctic areas. Current accepted regulations allowing the collection of plant materials in Kobuk River National Park and the Kobuk River Unit of Gates of the Arctic National Preserve have not resulted in any observed adverse impacts over the past 30+ years. The impacts to vegetation under Alternative D were judged to be minor at most. Because eligibility under the NPS selected alternative would be more restrictive than other alternatives, and permits or other written authorizations would be implemented, then overall effects of the NPS selected alternative would be minor at most. Because collections of the subject materials have generally occurred in the ANILCA area for many decades before and after the passage of ANILCA in 1980 without any obvious deleterious effects to the purposes and values for which the areas were established, which include subsistence uses, only minor adverse impacts are expected and the NPS selected alternative would not result in impairment to terrestrial vegetation.

Wilderness Character

NPS areas in Alaska contain about 33 million acres of designated wilderness and 19 million acres of area eligible for wilderness designation, all of which possess wilderness characteristics of untrammeled, natural, undeveloped, and have opportunities for solitude or primitive unconfined recreation. The EA recognized the only characteristics that would be affected by the proposed action were natural and untrammeled, and the effects under Alternative D were found to be minor and adverse. Proposed mitigating measures and the NPS selected alternative would result at most in minor adverse effects on wilderness character in the affected NPS areas in Alaska. These impacts would not result in any impairment of wilderness areas in affected Alaska NPS areas.

Wildlife/Habitat

ANILCA Titles I and II provide for the maintenance of sound populations of, and habitat for, numerous specified wildlife species of inestimable value to the citizens of Alaska and the Nation. The EA in chapter 3 describes which parks contain wildlife species with valued antlers, horns, and bones, and summarizes their uses. The potential adverse impacts to wildlife and their habitat from subsistence collections and uses of shed or discarded animal parts and plants under

alternative D would be minor. Proposed mitigating measures and the NPS selected Alternative D would result at most in minor adverse effects on wildlife and their habitat in the affected NPS areas in Alaska. Therefore, the NPS selected alternative would not result in impairment to wildlife or habitat.

Appendix C

Errata to the EA on Subsistence Collections and Uses of Shed or Discarded Animal Parts and Plants from National Park Service Areas in Alaska

1. The EA in section 3.2.3 (page 3-10) is modified to indicate that rural residents of Anaktuvuk Pass may be authorized to use aircraft for access to lands and waters within Gates of the Arctic National Park for subsistence purposes pursuant to 36 CFR 1004.
2. Table 3.21 Summary Conditions for Local Communities near WRST omits data for Slana and Nabesna. The table is modified to include the following information:

Community	Median Household Income (\$)	Per Capita Income (\$)	% Unemployed	% Below Poverty
Nabesna	No data	No data	No data	No data
Slana	40,489	15,916	48.1	50.2

