

FINDING OF NO SIGNIFICANT IMPACT

Two Lakes Land Exchange  
Lake Clark National Park and Preserve, Alaska  
August 2010

Recommended: \_\_\_\_\_

Superintendent, LACL

8/30/2010

Date

Approved: \_\_\_\_\_

Regional Director, Alaska Region

9/9/2010

Date

## **FINDING OF NO SIGNIFICANT IMPACT**

### **Two Lakes Land Exchange Lake Clark National Park and Preserve, Alaska August 2010**

The National Park Service (NPS) prepared an environmental assessment (EA) to consider acquiring the eastern 2 acre portion of U.S. Survey 5035 Alaska (NPS Tract LACL 05-104), a five acre parcel located on the northeast shore of Two Lakes, in exchange for an equal value and approximately equivalent amount of acreage abutting the western boundary of U.S. Survey 5035. The land exchange would provide the landowner additional room to move a cabin that is currently in danger of being washed into a braid of the Tlikakila River and deposited in Two Lakes. The NPS and private lands considered in the land exchange lie within the boundary of designated Wilderness. There would be no net loss of designated Wilderness area and no change in the exterior Wilderness boundary as a result of the land exchange.

The NPS has selected Alternative 2 to exchange lands of equal value.

An appendix to the FONSI provides the NPS's responses to substantive comments received during the comment period. An errata sheet found at the end of this document details changes made to the EA.

## **ALTERNATIVES**

Two alternatives were evaluated in the EA.

### **Alternative 1, No Action Alternative**

Under the no-action alternative, no land exchange would occur. The landowners may or may not be able to move their cabin and other structures to a limited area of their property northwest of the new river channel and far enough away to prevent destruction from erosion. Debris from further erosion could adversely affect water resources in the park.

### **Alternative 2**

Under this alternative the NPS would acquire the eastern 2 acre portion of U.S. Survey 5035, in exchange for a similar amount of park acreage abutting the western boundary of the property (See Map 1: Proposed Land Exchange). The western boundary of the parcel to be acquired by the NPS would follow the left bank (as you're looking downstream) of the river.

The NPS would continue to retain approximately equal acreage with no structures. The private parcel would retain the existing cabin, moved to a new location, with no net loss in acres.

## **PUBLIC INVOLVEMENT**

To initiate this EA process, notice of the project was published on the NPS Planning, Environment and Public Comment (PEPC) website. The EA was issued for public review and comment from May 5, 2010 to June 5, 2010. A letter announcing the availability of the EA was sent to 12 government agencies, interest groups and individuals. The EA was posted on the Lake Clark National Park and Preserve website and the NPS's PEPC website. Three written comments were received on the EA. In addition, a Notice of Realty Action was published in the Anchorage Daily News, and no additional comments were received.

Public comments were carefully considered and responses to public comments are found in Attachment A of this document. The public comments did not change the conclusions in the EA about the environmental effects of the preferred action; however, they resulted in the NPS modifying the selected action in order to avoid complications over the title of the stream bed.

## **DECISION**

The NPS decision is to select Alternative 2 with the following modification: the western boundary of the parcel to be acquired by the NPS will follow the left bank of the river (looking downstream).

### **Rationale for the Decision**

The selected alternative will satisfy the purpose and need of the project better than the no-action alternative because it protects park resources and values while protecting the landowner's property improvements. Given the dynamic nature of the river channel, the structures would continue to be at risk of washing into Two Lakes if they were moved to a location within the existing inholding. The terms and conditions of the land exchange will require the property owners to move the cabin and associated materials to a location on the newly acquired land within a reasonable period of time to protect park resources and the property owners' cabin and materials.

Alternative 1 (No Action Alternative) would not protect the landowner's property improvements, nor would it minimize potential adverse impacts on park resources and values from a cabin and other materials potentially washing into Two Lakes.

### **Significance Criteria**

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

*(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.*

The selected action will result in minor beneficial impacts to water quality, fish, and wilderness, and moderate beneficial impacts to the landowner and their ability to protect and use a cabin and other structures. None of the impacts are significant.

*(2) The degree to which the proposed action affects public health or safety.*

The selected action will favorably affect public health and safety by providing an adjustment of the private parcel boundary to facilitate movement of the private structures and materials farther from the river channel. Possible flooding of the inholding structures, with or without occupants, will be reduced as will the probability of depositing inholding debris into Two Lakes.

*(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetland, wild and scenic rivers, or ecologically critical areas.*

The selected action will not significantly affect any unique characteristics of the park. The park Wilderness boundary will remain unchanged, with only the boundary of the private property adjusted inland of the Wilderness boundary, with no net loss of wilderness acreage. Exchanges of private lands within Wilderness do not require adjustment of the Wilderness boundary.

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

The effects on the quality of the human environment will not be highly controversial. Neither the number of comments received on the EA during the public comment period, nor their content, indicate a high level of controversy exists regarding the proposed action.

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

The effects of the selected alternative do not involve unique or unknown risks.

*(6) The degree to which the action may establish a precedent of future actions with significant effects or represents a decision in principle about a future consideration.*

The selected alternative does not set a precedent for future actions. Other land exchanges have occurred in Lake Clark National Park and Preserve when the exchange would be beneficial to park resources, management, and the public interest. Future land exchanges will continue to be evaluated on a case-by-case basis against those criteria.

*(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.*

The action is not related to other actions that will amount to cumulatively significant impacts on the environment.

*(8) Degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*

The degree or possibility that the action may cause loss or destruction of known scientific, cultural, or historic resources is low enough that cultural resources were dismissed as an impact topic in the EA. The selected action helps protect a cabin that by age is apparently eligible for listing as a National Historic feature. The land owner has expressed interest in park support to seek such designation.

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

No threatened or endangered species are known to occur in the area.

*(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

The action will not cause a violation of any Federal, State, or local law or requirements for environmental protection.

## **FINDINGS**

Acquiring the eastern 2 acre portion of U.S. Survey 5035, in exchange for a similar area abutting the western boundary of the property, will provide the landowner sufficient room to move a cabin that is currently in danger of being washed into a braid of the Tlikakila River and deposited in Two Lakes. By this action, the NPS will retain designated Wilderness lands of similar character and with minimal future potential for damage to park resources.

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

The selected alternative complies with ANILCA and 2006 NPS Management Policies. There will be no significant restriction to subsistence resources or activities as documented by the Alaska National Interest Lands Conservation Act, Title VIII, Section 810(a) Summary Evaluation and Findings.

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

## **ATTACHMENT A**

### **NPS RESPONSES TO PUBLIC COMMENTS AND ERRATA Two Lakes Land Exchange Lake Clark National Park and Preserve, Alaska August 2010**

This attachment amends the subject environmental assessment (EA) and provides NPS responses to public comments.

#### **PUBLIC COMMENTS**

The NPS received 3 public comments: one from an agency, one from a non-profit, and one from an individual.

Described below are the substantive comments and the NPS response. A substantive comment is defined as one which leads the NPS to: (1) modify an alternative, including the proposed action; (2) develop and evaluate an alternative not previously given serious consideration; (3) supplement, improve, or modify the environmental analysis; or (4) make factual corrections (CEQ NEPA Regulations 1503.4).

**Comment 1:** The State appreciates the Service's willingness to work with and support the needs of the private landowner through this proposed land exchange. However, while generally supportive of the land exchange, we are concerned both the EA and letter indicate the exchange would give the Service an ownership interest in the Tlikakila River channel. We consider this portion of the river a braid of the navigable Tlikakila River. As such, the bed of the river, from ordinary high water mark (OHWM) to OHWM, was transferred to the State of Alaska at statehood and therefore, not owned by either party or subject to this transaction. The State does not concede the navigability of the Tlikakila River for title purposes. Until a court determines title to the Tlikakila River, the river and all interconnected braids and sloughs are undetermined. The State reserves the right to issue quiet title on the Tlikakila River in the future.

**NPS Response:** There is no disagreement that navigable waters and submerged lands within LACL are owned by the State of Alaska; however, there has been no formal or final finding of navigability in this specific circumstance.

The Errata clarifies the undetermined navigability status of this Tlikakila River and its branches. To avoid complications over the title of the stream bed, NPS has modified the selected alternative by adjusting the boundary of the exchange to the eastern side (river left looking downstream) of the channel so as not to include submerged lands potentially belonging to the State. The adjusted acreage should not be significant enough to be a problem getting necessary distance to move the cabin. This change is reflected in the Errata and the attached map.

**Comment 2.** Since drafting of the EA the Tlikakila River channel, as it bisects the landowner's tract, has straightened out. This suggests that erosion of the property owner's land may have lessened, perhaps

to a point where bank stabilization may now be feasible, in which case it would be a reasonable alternative for EA purposes. It also suggests that the altered channel may now be eroding the river left bank and excavating acreage the park would acquire under the proposed exchange.

**NPS Response:** The NPS does not agree with bank stabilization as an appropriate solution because the channel in question is part of a dynamic glacial river system and a broad alluvial fan near the terminus of this Tlikakila River, within designated Wilderness. The NPS objects to modifying, manipulating, and trammeling a natural aspect of these Wilderness lands. For these reasons, the NPS dismissed bank stabilization as a feasible alternative. It does not appear the river is eroding the river left bank, so the NPS is not likely to lose uplands to the State or other party.

## **ERRATA**

This errata section provides clarifications, modifications or additional information to the EA. These amendments do not significantly change the analysis of the EA and, therefore a new or revised EA is not needed and will not be produced.

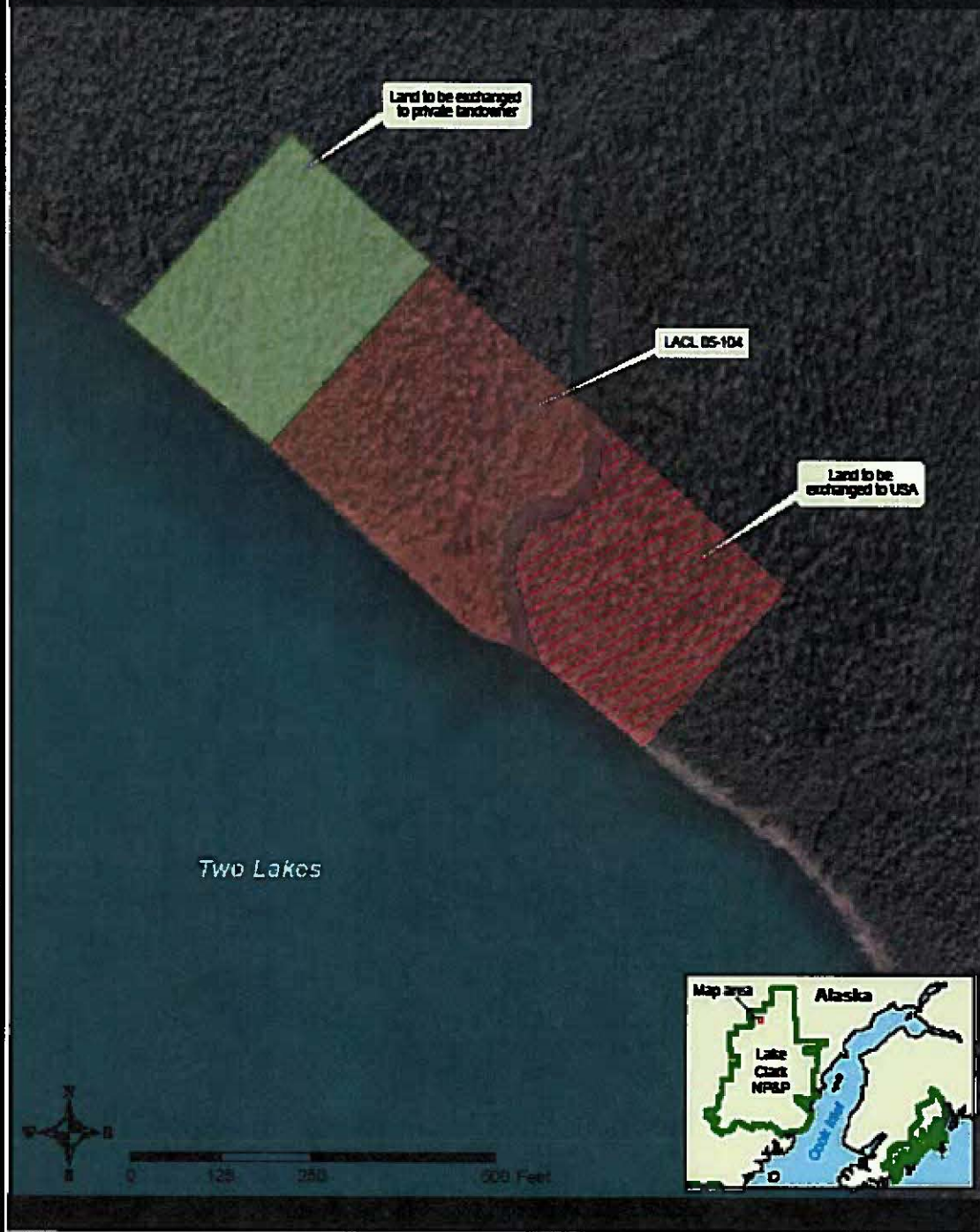
1. The navigability status of the Tlikakila River and its branches is undetermined. Should a formal and final finding of navigability be made for the Tlikakila River, the NPS would recognize State ownership of submerged lands as we have elsewhere. **[clarification]**
2. The acres to be exchanged would about 2 acres, not 3 acres, because the channel of the Tlikakila River would not be included in the land exchange.



# Two Lakes Proposed Land Exchange

## Lake Clark National Park & Preserve

National Park Service  
Alaska Regional Office





# Two Lakes Proposed Land Exchange

Lake Clark National Park & Preserve

National Park Service  
Alaska Regional Office



Land to be exchanged  
to private landowner

LACL 05-104

Land to be  
exchanged to USA

*Two Lakes*



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