

*Programmatic Agreement between the
National Park Service Interior Region 11 – Alaska
and the
Alaska State Historic Preservation Officer
Regarding Streamlined Review of Undertakings Supplemental to the
2008 National Programmatic Agreement for Compliance with
Section 106 of the National Historic Preservation Act*

Whereas, the National Park Service Interior Region 11 – Alaska (NPS-AK) manages resources on NPS-AK Parklands in Alaska and has determined that some undertakings may have an effect upon historic properties; and

Whereas, the majority of NPS-AK Parklands in Alaska, a total of 54 million acres, have not been inventoried for cultural resources; it is estimated that less than 5 percent of Alaska’s total landmass has been inventoried; and

Whereas, the NPS-AK desires to supplement the list of undertakings eligible for streamlined review set forth in the 2008 Nationwide Programmatic Agreement (NPA)¹ and comply with the National Historic Preservation Act (Title 54 U.S.C. §306108), hereinafter referred to as Section 106, through execution and implementation of this Supplemental Programmatic Agreement (PA) pursuant to 36 CFR §800.14 and Stipulation III(D) of the NPA; and

Whereas, this PA provides for streamlined review for certain types of activities which meet the definition of “Undertaking” contained in 36 CFR §800.16(y), but which the NPS-AK, in consultation with the Alaska State Historic Preservation Officer (SHPO), has determined have little potential to adversely affect historic properties whether known or unknown within the Area of Potential Effects (APE) and which are not already identified as streamlined activities under the NPA; and

Whereas, the NPS-AK Regional Director signature on this PA is on behalf of the overall region with Superintendents participating as Invited Signatories on a park-by-park basis; and

Whereas, the NPS-AK Superintendents are the agency officials responsible as defined in 36 CFR §800.2(a) for their respective Park Section 106 compliance and implementation of this PA; and

Whereas, the NPS-AK in coordination with Parks who have conducted consultation with federally recognized Indian tribes, Alaska Native Claims Settlement Act (ANCSA) Corporations, affiliated Alaska Native groups, and other interested parties [see Appendix A for park list of consulting parties who were consulted on this PA] and who

¹ 2008 Programmatic Agreement among the National Park Service (U.S. Department of the Interior), the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers for Compliance with Section 106 of the National Historic Preservation Act.

have been invited to participate as Concurring parties on this PA and have declined to participate; and

Whereas, the NPS-AK has conducted consultation with the public, using the Planning, Environment & Public Comment System to provide a 30-day review period that took place (add June-July dates); and (add response); and

Whereas, the NPS-AK has consulted with the SHPO pursuant to 36 CFR §800.14; and

Whereas, the NPS-AK has consulted with the ACHP in accordance with 36 CFR §800.14 and Stipulation IX(B) of the NPA to develop this PA and the ACHP has declined to participate or comment (November 9, 2020 letter); and

NOW, THEREFORE, the NPS-AK and the SHPO agree that the NPS-AK will carry out its Section 106 responsibilities with respect to operation, management, and administration of NPS-AK Parks in accordance with the following stipulations.

The NPS-AK shall ensure the following measures are implemented.

I. ADMINISTRATION

- A. This PA (AKR PA) provides a supplemental review process to the one described in NPA Stipulation III *Streamlined Review Process*. All other terms and conditions of the NPA will continue to apply without modification.
- B. National Parks within Interior Region 11- Alaska may opt to further streamline Section 106 for the undertakings that meet the conditions outlined in Stipulation III of this PA using the streamlined review process outlined in the NPA, Stipulation III.B.
 1. The Park Section 106 Coordinator, in coordination with the Cultural Resource Management (CRM) Team, will determine whether an undertaking meets the conditions described in (Stipulation III) of this PA and if it qualifies as a supplemental streamlined activity listed in (Stipulation IV) of this PA.
 - a. Even if an undertaking meets the conditions (Stipulation III), the Park Section 106 Coordinator may choose not to use the process provided for under this PA and use the Standard Review Process as described in Stipulation V of this PA.
 2. Members of the CRM Team and/or the Park Section 106 Coordinator are encouraged to consult with SHPO to discuss use of the streamlined process, especially regarding undertakings that are comparable in scale, scope, and effects to those that are explicitly named in this agreement and the NPA.

II. NPS-AK 106 PA STREAMLINED REVIEW PROCESS

When the Park Section 106 Coordinator, in consultation with appropriate CRM Team members, has determined that all of the conditions (Stipulation III) have been satisfied, the streamlined procedures under this Agreement may be used and no further consultation is required unless specifically requested by the SHPO, federally recognized Indian tribes(s), ANCSA Corporations, or affiliated Alaska Native groups. If one or more conditions are not met, the undertaking shall be subject to standard Section 106 procedures at 36 CFR 800.

III. CONDITIONS THAT MUST BE MET TO USE THIS PROGRAMMATIC AGREEMENT

The conditions to be met, in order to use the NPS-AK streamlined review process, are:

- A. The Park Section 106 Coordinator, in coordination with appropriate members of the CRM Team, determines the proposed undertaking is an activity eligible for supplemental streamlined review of this PA or is comparable in scale, scope, and impact to those that are explicitly named in this agreement.
- B. The APE has been identified and documented in NPS Planning, Environment & Public Comment (PEPC) System with a verbal description and/or map.
- C. Within the APE, appropriate identification and evaluation research has been carried out to the degree required to make decisions regarding any historic properties that may be affected by the undertaking.
- D. The Park has completed a reasonable and good faith effort to consult with federally recognized Indian tribe(s), ANCSA Corporations, and other interested parties that is commensurate with the scope and scale of the undertaking.
- E. The Park Section 106 Coordinator, in consultation with appropriate members of the CRM Team, must have reviewed the project and certified that the effects of the proposed undertaking on known and potential historic properties within the APE will not be adverse (finding of effect will be: “no historic properties affected,” or “no adverse effect”) based on criteria in 36 §CFR 800.5, including consideration of direct, indirect, and cumulative effects.
- F. The Park Section 106 Coordinator has reviewed and documented the undertaking in the PEPC System, including obtaining the appropriate CRM Team specialist reviews and the Superintendent signature on the Assessment of Effect form, prior to start of the activity.
- G. Further consultation with the SHPO regarding undertakings that use the streamlined process will be conducted as part of the NPS-AK Parks’ annual

reporting requirements under the NPA.

- H. The NPS-AK Parks shall ensure that any stipulations listed with the eligible streamlined activity will be included in the appropriate permit, authorization, and decision document.

IV. ADDITIONAL STREAMLINED ACTIVITY LIST

When the above conditions have been met, NPS-AK Parks may apply this PA for the following undertakings, and for other projects that are comparable in scale, scope, and impact. Any stipulations listed with the activity are required minimization measures to allow streamlining unless otherwise stated.

- A. Commercial Use Permits such as guiding activities for hunting or rafting that include small groups of people, not to exceed the backcountry quota for that area, in either established or prior-use camping areas and/or spike camps, and if there are already established 4-wheelers/ATV trails. For such permits, the following language will be specified:
 - 1. *Stipulation: As appropriate, the Park will require the user to be briefed by the Park Cultural Resource Specialist about what areas can be used and what to do in the event of a cultural resource discovery.*
 - 2. *Stipulation: As appropriate, the Park will require that the user(s) stay on established trails and/or routes to minimize effects.*
- B. Non-commercial Use Permits for research and non-profit organizations such as guiding activities for hunting or rafting that include small groups of people, not to exceed the backcountry quota for that area, in either established or prior use camping areas and/or spike camps, and if there are already established 4-wheelers/ATV trails. For such permits, the following language will be specified:
 - 1. *Stipulation: As appropriate, the Park will require that the user be briefed by the Park Cultural Resource Specialist about what areas can be used and what to do in the event of a cultural resource discovery.*
 - 2. *Stipulation: As appropriate, the Park will require that the user(s) stay on established trails and/or routes to minimize effects.*
- C. Special Use Permits for activities taking place over adequate snow cover such as ski races, dog mushing, winter festival types of activities, and snow machining. Adequate snow cover means snow of sufficient depth, generally 6-12 inches or more, or a combination of snow and frost depth sufficient to protect the underlying vegetation and soil. For such permits, the following language will be specified:

1. *Stipulation: As appropriate, the Park will require that the user avoid areas of cultural resources that are above ground – such as rock cairns, tent rings, as well as other structures.*
 2. *Stipulation: As appropriate, the Park will require that the user(s) stay on established trails and/or routes to minimize effects.*
- D. Small in scale investigative activities on historic structures for park management purposes, where sampling location and scale will not adversely affect the integrity of a structure. May include, but is not limited to: dendrochronology sampling, wallpaper sampling for interior studies, paint sample collection for paint analysis, and other minimally-destructive activities done to historic properties to further subject matter expert understanding.
1. *Stipulation: Samples will be taken from the least visibly noticeable location to minimize effects. In-kind repairs will follow sampling as appropriate to minimize effects.*
- E. Activities in locations where previous natural or human disturbance has been documented. NPS-AK Parks will confirm that the landscape has been extensively modified and/or that the nature of the activity is unlikely to affect buried or previously disturbed cultural resources or known historic properties. Examples of disturbed areas include natural landslides, areas of deglaciation, active streams, and riverbeds. NPS-AK Parks take special precautions where there are known intact cultural components below a disturbed layer. A cultural resource survey may be needed to verify this condition and to determine if the disturbance itself is of historic importance, including its consideration as a defining characteristic of a known or potential cultural landscape. For such permits, the following language will be specified:
1. *Stipulation: As appropriate, the Park will require that the permittee (or the Park Project Lead) be briefed by the pertinent Park Cultural Resource Team specialist on the process for reporting a naturally eroding site and inadvertent discovery. Park 106 Coordinator will consult with SHPO in the event of an inadvertent discovery.*
 2. *Stipulation: As appropriate, the Park will require that the user(s) stay on established trails and/or routes to minimize effects.*
- F. Aerial operations such as surveys or non-ground disturbing data collection with limited helicopter or airplane landings to collar or collect animal/biological samples or breaks. For such permits, the following language will be specified:
1. *Stipulation: As appropriate, the Park will require that the permittee be briefed by the pertinent Park Cultural Resource Team specialist regarding the areas of use and or avoidance in consideration of cultural resources.*

This briefing may include reporting process for an inadvertent cultural resource discovery. The Park 106 Coordinator will consult with SHPO in the event of an inadvertent discovery.

- G. Water-based research activities, in federally owned waters including wetlands, swamps, peat bogs, and intertidal zones, that have no associated land activity. Such activity includes minimal and temporary monitoring or other type of devices such as fish weirs to conduct population studies, underwater acoustic studies, and lake sampling. For such permits, the following language will be specified:

1. *Stipulation: As appropriate, the Park will require that the permittee be briefed by the pertinent Park Cultural Resource Team specialist regarding reporting process for an inadvertent cultural resource discovery. The Park 106 Coordinator will consult with SHPO in the event of an inadvertent discovery.*

- H. Research activities that include the temporary attachment of cameras with webbing or other non-invasive methods to trees, as well as temporary installations and supports that involve small stakes that are driven into the ground without displacing the soil. May include, but are not limited to, installation of bear fences and other temporary enclosures, and stabilizing data arrays or acoustic monitoring equipment. For such permits, the following language will be specified:

1. *Stipulation: As appropriate, the Park will require that the user (including project staff) be briefed by the Park Cultural Resources Specialist about how to identify and avoid cultural resources, such as culturally modified trees or rock cairns, prior to the work being conducted, as well as about the reporting process for an inadvertent cultural resource discovery.*

- I. Limited soil sampling with 4" (10 cm) diameter or less soil probe, no more than one hole per 100-meter square unit (10 m x 10 m). For such permits, the following language will be specified:

1. *Stipulation: The Park will require that the user be briefed by the Park Cultural Resource Specialist about how to identify cultural resources in a soil probe and the process for reporting an inadvertent discovery. Also required is a review of any proposed transects in GIS in order to modify or eliminate any transects in sensitive areas, as well as archeological monitoring in areas of high site probability. Park 106 Coordinator will consult with SHPO in the event of an inadvertent discovery.*

- J. Relocating non-historic temporary structures on non-permanent foundations (i.e., on skids or blocks) with no new ground disturbance.

1. *Stipulation: The location for the non-historic temporary structure(s) must not be within a known or potential site or historic district.*
- K. Construction of mobile/temporary shelters for winter use, most often for short-term recreational and short-term research camps with no new ground disturbance.
- L. Repair and maintenance of non-historic buildings and structures provided that enough identification, evaluation, and documentation has occurred to conclude that the property is not eligible for listing on the National Register of Historic Places (NRHP); and that if the property is within a National Register eligible historic property, such as a historic district, then the activity would have no adverse effect on the character-defining features *and* that there is no new ground disturbance, the project will not extend beyond existing fill, previously-disturbed depths, or into undisturbed native soils. Examples may include repairs of bridges, culverts, fences, fish weirs/ladders, cabins, and facilities in developed recreation areas.
- M. Meeting accessibility standards in/on historic buildings and structures when improvements do not affect the character-defining features of a building, structure, cultural landscape, or historic district. Improvements must be in keeping with an existing preservation treatment plan for the structure, meet the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, and involve no new ground disturbance.

V. STANDARD SECTION 106 REVIEW PROCESS

All undertakings in this PA that do not qualify for streamlined review or cannot accommodate the necessary stipulations as described in Section III, nor are eligible for streamlined review in the NPA, will be reviewed in accordance with 36 CFR Part 800.

VI. INADVERTENT DISCOVERIES

In the event that cultural resources or historic properties are inadvertently encountered during an undertaking which has been considered under the terms of this PA, the respective park Superintendent will notify the Alaska SHPO and federally recognized Indian Tribe(s), as appropriate, within 48 hours, or as soon as reasonably possible. The Superintendent in consultation with the Section 106 Coordinator and the appropriate members of the CRM Team, will make reasonable efforts as needed to evaluate significance and, if necessary, to avoid, minimize, or mitigate adverse effects on any historic properties in consultation with the SHPO, federally recognized Indian tribes(s), ANCSA Corporations, and other interested parties, as appropriate.

If human remains or other cultural material that may fall under the provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) are present, the Superintendent will comply with NAGPRA and with the Archaeological Resources

Protection Act (ARPA). The Superintendent will ensure that any human remains are always treated with dignity and respect, are left in situ, are not exposed, and remain protected while compliance with NAGPRA, ARPA, or other applicable federal, state, and/or local laws and procedures is undertaken.

VII. ANNUAL REPORTING

The Park Section 106 Coordinator for each participating Park will prepare an annual report of all undertakings reviewed using the Supplemental Streamlined Review activity list, in connection with the annual NPA streamlined review report. The Combined annual report will specify whether an undertaking was streamlined under the NPA or the AKR PA. The NPS-AK will follow the NPA annual reporting requirements to submit the combined annual report to SHPO. This combined reporting for the calendar year (January-December) will be transmitted to the SHPO no later than March 1st of the following year.

The annual report should include an assessment and evaluation of how the Stipulations and supporting appendices of the PA are being used by the Park, how they are working, and recommendations regarding types of review.

VIII. DISPUTE RESOLUTION

A. Should disputes arise, the Superintendent and the SHPO will consult with the objecting parties to resolve the objection. All work that is the subject of the dispute will stop until the dispute is resolved in accordance with the procedures in this section. The Superintendent and the SHPO will consult for 30 days to find consensus. If consensus cannot be reached, then the Superintendent will forward the information to the Regional Director. If the Regional Director and the SHPO cannot reach consensus within 30 days, then the Regional Director will forward the documentation to the ACHP and notify the NPS Director of the dispute. Within thirty (30) days after receipt of all pertinent documentation, the ACHP will either:

1. Provide the Regional Director with a recommendation, with an information copy provided to the NPS Director which the Regional Director will take into account in reaching a final decision regarding the dispute; or
2. Notify the Regional Director that it will comment to the NPS Director pursuant to the provisions of 36 CFR 800.7 and proceed to comment. Any ACHP comment provided in response to such a request will be taken into account by the NPS-AK with reference to the subject of the dispute.

B. In the event the ACHP does not respond within forty-five (45) days of receipt of all pertinent documentation, the Regional Director may proceed with his or her recommended resolution.

C. At the request of any individual, agency, or organization, the ACHP may provide the NPS-AK with an advisory opinion regarding the substance of any finding, determination,

or decision made in accordance with this PA or regarding the adequacy of the NPS-AK's compliance with Section 106 and this PA.

IX. MONITORING AND AMENDMENT

The NPS-AK Regional Director will convene a meeting with the SHPO at the end of every other calendar year to review implementation of the terms of this Agreement and determine whether revisions or amendments are needed. If revisions or amendments are needed, the signatories will consult in accordance with 36 CFR §800.14(b).

Any signatory to this PA may propose to the NPS-AK Regional Director that the PA be amended, whereupon the NPS-AK Regional Director shall consult with other signatories to this PA to consider such an amendment. 36 CFR §800.6(c) (7) shall govern the execution of any such amendment.

X. TERMINATION

Any signatory to this PA may terminate it by providing thirty (30) days' notice to the other signatories explaining the reasons for the proposed termination. The NPS-AK Regional Director will consult with the other signatories during this period to seek agreement on amendments or other actions that will avoid termination. In the event of termination, the NPS-AK Regional Director will request comments of the ACHP under 36 CFR §800.7(a) and comply with 36 CFR 800 with regard to individual undertakings otherwise covered by this agreement.

XI. DURATION

This PA shall become effective upon execution by the signatories to this PA and shall remain in effect until terminated or 10 years after it becomes effective. If NPS-AK signatories wish to continue this Agreement, the NPS-AK Regional Director shall so notify the signatories to this Agreement and re-initiate the review of this PA in accordance with 36 CFR §800.14.

XII. ANTI-DEFICIENCY ACT

The stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act (31 U.S.C. 1341 (1998)). If compliance with the Anti-Deficiency Act alters or impairs NPS-AK Superintendents' ability to implement the stipulations of this Agreement, the NPS-AK Regional Director will consult in accordance with the dispute resolution, amendment or termination stipulations as specified in Sections VIII, IX and X of this PA.

XIII. EXECUTION AND IMPLEMENTATION

Execution and implementation of this PA evidences that the NPS-AK has satisfied their Section 106 responsibilities for all individual undertakings subject to streamlined review pursuant to this programmatic agreement. This PA may be executed in counterparts (i.e. individual signature pages), each of which shall be deemed an original, but all of

which together shall constitute one and the same instrument. The NPS-AK may consolidate the signature pages to produce the final copies. The NPS-AK will ensure that copies of the fully executed AKR PA are distributed to the signatories and will make copies available to consulting parties upon request.

Additional NPS-AK Park Superintendents may sign onto this agreement following consultation with their park consulting parties. Through the consultation process, if there are requests for changes in the PA, this will be brought before all existing signatories for consideration and, as needed, any changes will follow the amendment process (IX). The Superintendent signature page will include identification of the consulting parties. Signed signature page copies will be distributed to all signatories and consulting parties to this agreement.

SIGNATORIES:

NATIONAL PARK SERVICE INTERIOR REGION 11 – ALASKA

By: _____ Date _____
M. Sarah Creachbaum
Regional Director

ALASKA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date _____
Judith E. Bittner, State Historic Preservation Officer

THERE WILL BE SEPARATE PAGES FOR **INVITED SIGNATORIES** (Superintendents)

PARK UNIT NAME

By: _____ Date _____
Superintendent

CONCURRING PARTIES – TBD

By: _____ Date _____

Appendix A

List of National Park Units with Tribes and interested parties who were consulted with on the Interior Region 11 (Alaska) Section 106 Programmatic Agreement

Bering Land Bridge National Preserve

Native Village of Buckland
Native Village of Deering
Native Village of Kotzebue
Native Village of Shishmaref
Native Village of Wales

Cape Krusenstern National Monument

Native Village of Kivalina
Native Village of Kotzebue
Native Village of Noatak
Native Village of Point Hope

Denali National Park and Preserve

Federally Recognized Indian Tribes:

Native Village of Cantwell
Manley Hot Springs Village
Native Village of Minto
Nenana Native Association
Nikolai Village
Native Village of Tanana
Telida Village

ANCSA Regional Corps:

Ahtna, Inc.
Doyon Limited
CIRI Corporation

ANCSA Village Corps:

Seth-De-Ya-Ah Corporation
Tozitna, Limited
Toghotthele Corporation
BEAN RIDGE Corporation
MTNT, Limited

Tribal Consortiums:

Tanana Chiefs Conference

Local Government:

Denali Borough
Matanuska-Susitna Borough

Other Interested Parties:

Denali Citizens Council
Lake Minchumina Traditional Council
Talkeetna Community Council
Talkeetna Historical Society

Gates of the Arctic National Park and Preserve and Yukon-Charley Rivers National Preserve

Alatna Village Council
Allakaket Traditional Council
Circle Native Village Council (IRA)
Evansville Tribal Council
Hughes Tribal Council
Native Village of Ambler Traditional Council - 1
Native Village of Ambler Traditional Council - 2
Native Village of Eagle
Native Village of Kobuk
Native Village of Nuiqsut
Native Village of Shungnak
Village of Anaktuvuk Pass (Village Council)

Glacier Bay National Park and Preserve

Hoonah Indian Association
Yakutat Tlingit Tribe

Kenai Fjords National Park

Chugach Alaska Corporation
English Bay Corporation
Nanwalek IRA Council
Port Graham Village Council
Port Graham Corporation
Seldovia Village Tribe

Kobuk Valley National Park

Native Village of Ambler
Native Village of Kiana
Native Village of Kobuk
Native Village of Kotzebue
Native Village of Noorvik
Native Village of Selawik
Native Village of Shungnak

Lake Clark National Park and Preserve

Iliamna Village Council
Kenaitze Indian Tribe
Kijik Corporation
Lime Village Traditional Council

Newhalen Tribal Council
Nondalton Tribal Council
Pedro Bay Village Council
Tyonek Village Council

Noatak National Preserve

Native Village of Kivalina
Native Village of Kotzebue
Native Village of Noatak

Sitka National Historical Park

Sitka Tribe of Alaska

Wrangell-St. Elias National Park and Preserve

Cheesh'na Tribal Council
Chitina Traditional Village Council
Gulkana Village Council
Healy Lake Village
Mentasta Traditional Council
Native Village of Eyak
Native Village of Gakona
Native Village of Kluti-Kaah
Native Village of Tanacross
Native Village of Tazlina
Native Village of Tetlin
Northway Village
Village of Dot Lake
Yakutat Tlingit Tribe

Ahtna, Incorporated
Chitina Native Corporation
Chugach Alaska Corporation