



ASSES EARS



DWARF RHODODENDRON



VEGETATION EMERGING FROM LAVA



SULLIVAN BLUFFS SEABIRD COLONY

CONSULTATION AND COORDINATION  
APPENDIXES  
SELECTED BIBLIOGRAPHY  
PLANNING TEAM

## CONSULTATION AND COORDINATION

Many activities have taken place throughout the general management planning process for Bering Land Bridge. These include contacts with the general public, agencies, and organizations. The planning process began in March 1984 with an announcement in the Federal Register and an open meeting in Anchorage. Additional public meetings were held in Shishmaref, Wales, Deering, and Nome in April and May. The purpose of these meetings was to identify issues that should be addressed in the general management plan. These meetings helped the superintendent and park planners to better understand concerns relating to the establishment and management of the preserve.

Follow-up meetings were held as necessary with organizations such as the Kawerak Board, Bering Straits Coastal Resource Service Area Board, and the Alaska Reindeer Committee, as well as with federal, state, and regional agencies, local organizations, and landowners who would be affected by plan implementation. A newsletter reviewing the status of planning was published in July 1984.

Three alternative management strategies--the proposal and two alternatives--for the national preserve were considered in the Draft General Management Plan/Environmental Assessment, which was released in March 1985. The proposal was the minimum action alternative to meet the legislative mandates, to protect natural and cultural resources, to continue subsistence uses and reindeer grazing, and to provide information, interpretation, and recreational opportunities.

Under alternative A existing policies would be continued, with the National Park Service responding to future needs and problems without major actions or changes in course. Under alternative B development and use of the preserve would be increased by improving access, providing additional visitor facilities, and increasing staffing.

A revised draft plan was released in December 1985, and it incorporated many changes based on comments received on the March 1985 draft. A summary of comments received on the March 1985 draft and the December 1985 revised draft follows. Major changes made to the March 1985 draft and the December 1985 revised draft are summarized in the "Introduction".

### PUBLIC REVIEW COMMENTS ON MARCH 1985 DRAFT PLAN

Public meetings on the March 1985 Draft General Management Plan / Environmental Assessment were held in Nome, Shishmaref, Deering, Wales, Kotzebue, Fairbanks, and Anchorage. The purpose of these meetings was to present draft plan recommendations, answer questions, and receive comments. The public participation at these meetings has provided the National Park Service with valuable information about the resources and uses of the preserve, and about the preferences of the people of Seward



Peninsula and other parts of the state regarding management of the preserve.

The major issues discussed at these meetings and in written comments were subsistence, access, Serpentine Hot Springs, land protection, local hire, tourism, and reindeer. The concerns are summarized below.

Subsistence--The major concern is to ensure protection of subsistence resources and to prevent future conflicts from tourists and sporthunters. There is concern by the native community that the National Park Service would restrict subsistence activities at some future time. Several comments were made concerning the need for and fear of restriction of temporary and permanent cabins and other subsistence-related structures.

Access--There are concerns about access to allotments and other areas necessary for subsistence activities. Access to allotments by traditional methods was discussed. Three-wheelers or other types of ORVs might be the methods of getting to some allotments. Three-wheelers are currently used on beaches, possibly in violation of existing regulations. Other access concerns relate to NPS management intent for public use easements, ANCSA 17(b) easements, and RS 2477 rights-of-way.

Serpentine Hot Springs--Shishmaref is very concerned about the ownership and management of the hot springs. There is fear that the National Park Service would restrict future native access to the hot springs or give preference to tourists. There seemed to be general approval of the preferred alternative for Serpentine, except that there were questions about the need for an administrative cabin.

Land Protection--There were strong feelings about the recommendation to acquire five allotments in fee on a willing-seller basis. Other alternatives such as voluntary cooperative agreements were recommended. There were also several comments about the wording of the recommendation to acquire Serpentine Hot Springs if conveyed by exchange. Cooperative agreements or no action were suggested as alternatives. The recommendation to acquire 1 acre in Shishmaref and Deering each for ranger stations was opposed because of the limited availability of land. Leasing was suggested as a more viable alternative.

Local Hire--Several comments were made about the need for local hire positions and about the fact that comparable wages for the region be provided.

Tourism--Concerns were expressed about the National Park Service promoting and advertising the preserve. Some said that the National Park Service should not seek out people to describe the resource values of the preserve, rather information should be provided only if requested. Comments were made in favor of an information center in Nome that would be run jointly by the Park Service and the city.

Reindeer--Several reindeer concerns were raised: the need to provide full fire protection on winter ranges, need for shelter cabins for herders, predator control, the need for increased permit levels, and potential conflicts between reindeer and caribou.

Many detailed written comments that reflected concerns similar to those expressed at the public meetings were received on the March 1985 draft plan. Also more than 125 letters were received about general planning and management concerns in all national park system units in Alaska. The general concerns related to the following issues:

making wilderness designation recommendations to Congress

working with the Bureau of Land Management to identify federal lands outside conservation system units that are available for exchange purposes (boundary adjustments and land exchanges that result in the loss of parklands should be evaluated by an environmental impact statement and reviewed by Congress)

making funds available to carry out land protection plans; acquiring inholdings

not allowing recreational use of off-road vehicles, including snowmachines

## PUBLIC REVIEW COMMENTS ON THE DECEMBER 1985 REVISED DRAFT

### Comments Common to all Plans

#### General

The National Park Service should continue to protect and maintain the undeveloped character of the national park system units in Alaska.

The National Park Service is using policies that are too restrictive--the National Park Service is anti-people.

The public is not capable of developing data to respond to the plans.

Radio repeaters do not belong in parks.

Private land, subsistence, and mining are cultural resources and should be recognized as such.

Plans provide little improvement of recreational opportunities.

Employment opportunities for local residents were not discussed.



There should be subsistence management plans for each national park system unit.

Definitions of traditional, temporary use, and public safety should be included.

Implementation of the plans will be too expensive.

Requests for temporary facilities should be addressed on a case-by-case basis, not in a blanket prohibition (preserves only).

What would constitute a "significant expansion" of temporary facilities needs to be determined (preserves only).

### Natural Resources

The management intent for fish and wildlife with respect to the National Park Service and Alaska Department of Fish and Game should be clarified.

All national park system units should have class I air quality.

Dogs should be the only pack animals allowed.

The National Park Service should make a greater effort to identify all resources, including minerals.

The difference between "natural and healthy" and "healthy" wildlife populations should be discussed, and management implications should be identified.

The Park Service should consider following U.S. Fish and Wildlife Service policy on the regulation of navigable rivers.

The plans need to state that the National Park Service has ultimate authority for managing fish and wildlife.

The process for involving fish and game advisory councils and committees needs to be described.

### Land Protection Plan

The plans need to state that complete federal ownership of land is needed for proper management.

All private lands need to be acquired.

Boundary adjustments could be used to eliminate private lands within national park system units.

Inholders are threatened by unnecessary regulations.

The system for getting rural input in preparing the plans was inadequate.

Mechanisms for public review of resource management plans need to be provided.

#### Wilderness

Potential transportation corridors should not be recommended for wilderness designation.

Congress should review all changes in wilderness boundaries.

Wilderness areas need to be managed more liberally to be consistent with ANILCA.

#### Comments Specific to Bering Land Bridge

##### Communication

A public meeting should have been held in Shishmaref.

An advisory committee should be established.

The superintendent should communicate more with Shishmaref residents.

##### Serpentine Hot Springs

Facilities should not be improved.

Exclusive use by natives should be allowed in spring.

Users should not be required to notify the Park Service of use.

##### Subsistence

Existing lifestyles should be allowed to continue.

ORV access is traditional for subsistence.

A subsistence resource commission should be established.

Clarification of subsistence access is needed.



The high priority for the acquisition of nonfederal lands is opposed.

The Park Service should consider land exchanges within national park system units to minimize effects on native allottees.

Native allotments should not be acquired.

Inholders would like to provide commercial services for other park users.

NEPA and 810 documents need to be prepared for land protection plans.

Private lands should be used as developed areas.

Additions to national park system units should not simply be the same designation as adjacent units.

The land protection plans violate ANILCA provisions for access to inholdings.

#### Access

The National Park Service should limit the number of off-road vehicles.

RS 2477 maps should be deleted from the plans.

The use of helicopters should be restricted to administrative uses only.

The National Park Service does not have adjudicative or management authority for RS 2477 rights-of-way.

Snowmachines and motorboats should be further restricted.

ORV determinations relating to subsistence use lack substantiation.

RS 2477 rights-of-way should be resolved before wilderness recommendations are made.

If permits are required for ATVs, they should be easy to obtain.

The Wrangell's ORV study results should not be applied to other national park system units.

#### Public Involvement

Methods for involving local residents in planning and management should be identified.

### Access

Access provisions to allotments need to be clarified.

New roads should be allowed.

New roads should not be allowed.

Access needs to be improved.

Snow machines are sometimes used when there is not adequate snow cover.

### Mining

Mining claims should not be acquired.

The use of helicopters should be allowed for mineral assessment.

### Boundary Adjustments and Land Exchange

The land corridor south of Shishmaref Inlet should be deleted.

### Land Protection

Allotments should not be acquired.

Serpentine Hot Springs should not be acquired if it is conveyed to the native corporation.

### Wilderness

Serpentine Hot Springs should not be designated as suitable for wilderness.

None of the preserve should be designated as suitable for wilderness.

## REVIEWING AGENCIES AND ORGANIZATIONS

The following agencies and organizations were contacted during the planning process:

### Federal Agencies

Department of Agriculture  
Soil Conservation Service



Department of the Interior  
Bureau of Indian Affairs  
Bureau of Land Management  
U.S. Fish and Wildlife Service

Federal-State Agency

Alaska Land Use Council

Alaska State Agencies

Advisory Commission on Federal Areas  
Alaska Reindeer Council  
Department of Community and Regional Affairs  
Department of Fish and Game  
Department of Natural Resources  
Department of Transportation and Public Facilities  
Office of Governmental Coordination

Local Agencies and Native Corporations

Bering Straits Native Corporation  
Bering Straits Coastal Resource Service Area Board  
Deering, City of  
Deering IRA Council  
Kawerak, Inc.  
Kikiktagruk Inupiat Corporation  
Maniilaq Association  
NANA Coastal Resource Service Area Board  
NANA Regional Corporation  
Nome, City of  
Nome Visitor Information and Convention Bureau  
Shishmaref, City of  
Shishmaref IRA Council  
Shishmaref Village Corporation  
Sitnasauk, Inc.  
Wales, City of  
Wales IRA Council  
Wales Village Corporation

Organizations

Alaska Federation of Natives  
Audubon Society  
Carrie McLain Museum  
Nome Chamber of Commerce  
Northwest Community College  
Reindeer Herders Association  
Sierra Club

## APPENDIX A: SUMMARY OF ANILCA PROVISIONS

The provisions of ANILCA that are most relevant to Bering Land Bridge National Preserve are summarized below:

Section 101(c), Subsistence Opportunity: It is the intent and purpose of this act to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so, as long as such use is consistent with the purposes of the preserve. Subsistence use will not be prohibited unless, after local public hearings, such use is found to be detrimental to the area's resource values.

Section 103(b), Boundary Adjustments: Minor boundary adjustments are authorized that will not increase or decrease the total preserve acreage by more than 23,000 acres. Whenever possible, boundaries will follow hydrographic divides or embrace other topographic or natural features.

Section 103(c), Inholdings and Regulations: The preserve was established subject to valid existing rights, and no lands "conveyed to the State, to any Native Corporation, or to any private party shall be subject to regulations applicable solely to public lands within such units."

Section 201(2), Establishment of Bering Land Bridge National Preserve: The preserve will be managed for the following purposes, among others:

- to protect and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, coastal formations, and other geologic processes

- to protect habitat for internationally significant populations of migratory birds

- to protect habitat for and populations of fish and wildlife (marine mammals, brown and grizzly bears, moose, and wolves)

- to provide for archeological and paleontological study of plant and animal migrations, including man, between North America and Asia

- to continue reindeer grazing use, including necessary equipment and facilities

- to protect the viability of subsistence resources

- to provide for outdoor recreation and environmental education, including public access for recreation at Serpentine Hot Springs

- to continue customary patterns and modes of winter travel when there is adequate snow cover from Deering to the Taylor Highway

Section 203, Hunting and Subsistence: Subsistence uses by local residents and hunting will be permitted in the preserve. No entrance fees will be charged.



Section 206, Withdrawal from Mining: Subject to valid existing rights, federal lands are withdrawn from appropriation or disposal under public land laws, including location, entry, and patent under U.S. mining laws, disposition under the mineral leasing laws, and from future selection by the state and native corporations.

Title VIII, Subsistence Management and Use: This title provides for subsistence management and use, and it authorizes the state to enact and implement laws of general applicability. The title covers a broad range of particulars, including the policy of providing opportunities for rural residents to engage in a subsistence way of life, the definition of what subsistence use means, and a distinction between healthy populations of fish and wildlife in all conservation units and natural and healthy populations within parks and monuments. Priority criteria for determining subsistence users, and a provision for local and regional participation in the consideration of subsistence matters, are also outlined. Judicial enforcement, subsistence resource commissions, land use decisions, access, and closure to subsistence uses are also discussed.

Section 907, Alaska Land Bank: ANILCA establishes an Alaska Land Bank program to enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated management and protection of federal, state, native, and private lands. Any private landowner is authorized to enter into a written agreement with the secretary of the interior if his lands adjoin, or his use of lands would directly affect, federal or state lands. Benefits of participation include immunity from real property taxes and assessments unless the land is leased or developed as defined in ANCSA, section 21(d). Also the landowner may receive technical and other assistance with respect to fire control, trespass control, resource and land use planning, the management of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties.

Section 1010, Mineral Resource Assessment Program: The oil, gas, and other mineral potential of all public lands in the state of Alaska are to be assessed. The assessments will take place notwithstanding any restrictions under the Wilderness Act, but will not occur during nesting, calving, spawning, or such other times as fish and wildlife in the specific area may be especially vulnerable to such activities.

Section 1104, Transportation and Utility Systems: Procedures are established for reviewing requests for rights-of-way for any transportation or utility system across public lands, and criteria are established for approving or disapproving such requests.

Section 1109, Valid Existing Rights-of-Access: Valid existing rights-of-access will not be adversely affected.

Section 1110, Special Access and Access to Inholdings: The use of snowmachines, motorboats, airplanes, and nonmotorized surface transportation will be permitted for traditional activities and for travel to and from villages and homesites.

Section 1111, Temporary Access: The state or a private landowner will be allowed temporary access across the preserve for purposes of survey, geophysical, exploratory, or other temporary uses that will not permanently harm the resources of the preserve.

Section 1201, Alaska Land Use Council: The Alaska Land Use Council is established and directed to conduct studies and advise its members with respect to ongoing, planned, and proposed land and resource uses.

Section 1301, Management Plans: Within five years from the enactment of ANILCA (December 2, 1980) a conservation and management plan is to be submitted to Congress for each new unit of the national park system or any unit to which additions were made by ANILCA. Each plan will consider the purposes of the unit, its resources, activities adjacent to the unit, and opportunities to provide for continuing traditional activities of Alaska natives. The plans will contain maps, programs, and methods for managing resources; a description of proposed development; a plan of access and circulation; a description of programs and methods for protecting the cultural heritage of resident individuals and for encouraging their employment; and a plan for land acquisition and boundary adjustments. Each plan will include a description of private lands within or surrounding the area and their existing or proposed uses, as well as cooperative agreements that could or should be entered into to improve the management of the unit and the activities carried out on the private lands. In developing, preparing, and revising the plans, public hearings will be held, and the participation of the Alaska Land Use Council, the state of Alaska, native corporations, and concerned organizations and individuals will be permitted.

Sections 1302(a) and (b), Land Acquisition Authority: Lands may be acquired by purchase, donation, exchange, or otherwise. However, lands owned by the state or its political subdivisions, by native corporations or groups, or by occupants with existing prior rights or a spouse or lineal descendants may only be acquired with the consent of the owner. Lands may not be acquired if they have been conveyed pursuant to ANCSA, section 14(c)(1), unless the secretary of the interior determines that activities on the tract are or will be detrimental to the purposes of the unit. Lands contiguous to the preserve that are owned or selected by the state may be acquired by the secretary through donation or exchange.

Section 1303, Use of Cabins and Other Structures on NPS Lands: Cabins or other structures existing prior to December 18, 1973, may be used and occupied by the claimant on the basis of a five-year, renewable, nontransferable permit. Cabins or other structures occupied between December 18, 1973, and December 1, 1978, may be used and occupied on the basis of one-year, nontransferable, nonrenewable permits. On a case-by-case basis, the secretary may extend the permit term beyond one year.

Section 1304, Archeological and Paleontological Sites: Bering Land Bridge National Preserve is authorized to acquire by purchase, with the consent



of the owner, or by donation or exchange any significant archeological or paleontological sites located outside the present preserve boundaries.

Such acquisitions are not constrained by authorized area acreages established in title I, but they must not exceed a total of 7,500 acres. The sites covered by this provision must be associated with the resources inside the preserve. No condemnation authority is included. Acquisition must be accompanied by public notice and notification of Congress.

Section 1306, Administrative Sites and Visitor Facilities: The secretary of the interior may lease or acquire by purchase, donation, exchange, or any other means (except condemnation) real property (other than federal land), office space, housing, and other facilities outside the preserve boundaries that are necessary for the administration of the unit. This section also authorizes memorandums of agreement with other federal agency landowners. This authority provides the means for establishing administrative facilities outside the preserve if necessary for the preservation, protection, and proper management of the preserve.

Section 1307, Revenue-Producing Visitor Services: The secretary will permit persons adequately operating visitor service businesses on or before January 1, 1979, to continue to operate such services and similar types of services. In selecting persons to provide visitor services--except guiding for sport fishing and hunting--the secretary is authorized to give preference to the native corporation directly affected by the establishment of the unit and to local residents.

Section 1308, Local Hire Program: Local persons with special knowledge and skills concerning the resources of a unit and the management thereof may be hired for any position within the unit. In selecting these persons, civil service laws and regulations, employment preference, and numerical limitation may be disregarded.

Section 1310, Navigation Aids and Other Facilities: This section provides "reasonable access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities, and existing facilities for weather, climate, and fisheries research and monitoring," and for national defense purposes. The establishment, operation, and management of new facilities is also allowed.

Section 1313, Administration of National Preserves: Preserves will be managed in the same manner as national parks except that the taking of fish and wildlife for both sport purposes and subsistence uses, and trapping, will be allowed under applicable state and federal laws and regulations.

Section 1314, Taking of Fish and Wildlife: The state of Alaska has the responsibility and authority for managing fish and wildlife on public lands, and the secretary of the interior has responsibility and authority over the management of public lands. Areas designated as national parks or monuments will be closed to the taking of wildlife, but fishing will be permitted according to applicable state and federal laws. Subsistence uses by local, rural residents will also be permitted.

Sections 1315(c) and (d), Wilderness Management--Public Use Cabins: Section (c) provides that public use cabins within wilderness designated by ANILCA may continue to be used, maintained, and replaced. Section (d) provides for the construction and maintenance of new public use cabins and shelters if such construction is harmonious with the wilderness setting.

Section 1316, Allowed Uses--Temporary Facilities: The continued use and the future establishment and use of temporary campsites, tent platforms, shelters, and other temporary facilities directly and necessarily related to the taking of fish and wildlife are allowed. The section also provides measures for construction, use, termination, and prohibition.

Section 1317, Wilderness Review: All lands within national park system units that are not designated as wilderness are to be reviewed by December 2, 1985, as to their suitability or nonsuitability for preservation as wilderness. The results of the review and recommendations will be sent to the president, who will make recommendations to Congress.

Section 1318, Cultural Assistance Program: The secretary of the interior may, when requested, provide advice, assistance, and technical expertise to a native corporation or native group regarding the preservation, display, and interpretation of cultural resources.

Section 1415, Relinquishment of State or Native Selections: Native corporations may relinquish those portions of selected townships which lie within the boundaries of conservation units without affecting those portions that lie outside and without affecting the total entitlement of the corporation. This is an incentive for making relinquishments that can be of benefit to both the preserve and the corporation.

Section 1501, Areas Subject to the National Need Recommendation Process: Units of the national park system are exempt from the national need for minerals, which would allow for exploration, development, or extraction.



**APPENDIX B: FINAL RULES ON PUBLIC  
USE OF NATIONAL PARK SYSTEM UNITS IN  
ALASKA (36 CFR 1.5 and 13 and 43 CFR 36)**

**31854 Federal Register / Vol. 46, No. 116 / Wednesday, June 17, 1981 / Rules and Regulations**

**PART 13—NATIONAL PARK SYSTEM  
UNITS IN ALASKA**

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**Authority:** Sec. 3 of the Act of August 15, 1916 (39 Stat. 535, as amended (16 U.S.C. 3); 16 U.S.C. 1, 1a-1, 1c, 462); Alaska National Interest Lands Conservation Act (ANILCA), 94 Stat. 2371 and 1261; Pub. L. No. 96-487 (December 2, 1980); and the Paperwork Reduction Act of 1980, 94 Stat. 2812, Pub. L. No. 96-511.

**Subpart A—Public Use and Recreation**

**§ 13.1 Definitions.**

The following definitions shall apply to all regulations contained in this part:

- \* (a) The term "adequate and feasible access" means a reasonable method and route of pedestrian or vehicular transportation which is economically practicable for achieving the use or development desired by the applicant on his/her non-federal land or occupancy interest, but does not necessarily mean the least costly alternative.

(b) The term "aircraft" means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including, but not limited to airplanes, helicopters and gliders.

(c) The term "ANILCA" means the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Pub. L. 96-487 (December 2, 1980)).

(d) The term "carry" means to wear, bear or carry on or about the person and additionally, in the case of firearms, within or upon a device or animal used for transportation.

(e) The term "downed aircraft" means an aircraft that as a result of mechanical failure or accident cannot take off.

(f) The term "firearm" means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designated to or may readily be converted to expel a projectile by the action of expanded gases, except that it does not include a pistol or rifle powered by compressed gas. The term "firearm" also includes irritant gas devices.

(g) The term "fish and wildlife" means any member of the animal kingdom,

\*Regulations that were revised as of Sept. 4, 1986



including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, produce, egg, or offspring thereof, or the dead body or part thereof.

(h) The term "fossil" means any remains, impression, or trace of any animal or plant of past geological ages that has been preserved, by natural processes, in the earth's crust.

(i) The term "gemstone" means a silica or igneous mineral including, but not limited to (1) geodes, (2) petrified wood, and (3) jade, agate, opal, garnet, or other mineral that when cut and polished is customarily used as jewelry or other ornament.

(j) The term "National Preserve" shall include the following areas of the National Park System:

Alagnak National Wild and Scenic River, Aniakchak National Preserve, Bering Land Bridge National Preserve, Denali National Preserve, Gates of the Arctic National Preserve, Glacier Bay National Preserve, Katmai National Preserve, Lake Clark National Preserve, Noatak National Preserve, Wrangell-St. Elias National Preserve, and Yukon-Charley National Preserve.

(k) The term "net" means a seine, weir, net wire, fish trap, or other implement designed to entrap fish, except a landing net.

(l) The term "off-road vehicle" means any motor vehicle designed for or capable of crosscountry travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain, except snowmachines or snowmobiles as defined in this chapter.

(m) The term "park areas" means lands and waters administered by the National Park Service within the State of Alaska.

(n) The term "person" means any individual, firm, corporation, society, association, partnership, or any private or public body.

(o) The term "possession" means exercising dominion or control, with or without ownership, over weapons, traps, nets or other property.

(p) The term "public lands" means lands situated in Alaska which are federally owned lands, except—

(1) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act (72 Stat. 339) and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act (85 Stat. 688) which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(q) The term "snowmachine" or "snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the snow and steered by a ski or skis on contact with the snow.

(r) The term "Superintendent" means any National Park Service official in charge of a park area, the Alaska Regional Director of the National Park Service, or an authorized representative of either.

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

(t) The term "temporary" means a continuous period of time not to exceed 12 months, except as specifically provided otherwise.

(u) The term "trap" means a snare, trap, mesh, or other implement designed to entrap animals other than fish.

(v) The term "unloaded" means there is no unexpended shell or cartridge in the chamber or magazine of a firearm: bows, crossbows and spearguns are stored in such a manner as to prevent their ready use; muzzle-loading weapons do not contain a powder charge; and any other implement capable of discharging a missile into the air or under the water does not contain a missile or similar device within the loading or discharging mechanism.

(w) The term "weapon" means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, crossbow, blow gun, speargun, hand thrown spear, slingshot, explosive device, or any other implement designed to discharge missiles into the air or under the water.

### § 13.2 Applicability and scope.

(a) The regulations contained in this Part 13 are prescribed for the proper use and management of park areas in Alaska and supplement the general regulations of this chapter. The general regulations contained in this chapter are applicable except as modified by this Part 13.

(b) Subpart A of this Part 13 contains regulations applicable to park areas. Such regulations amend in part the

general regulations contained in this chapter. The regulations in Subpart A govern use and management, including subsistence activities, within the park areas, except as modified by Subparts B or C.

(c) Subpart B of this Part 13 contains regulations applicable to subsistence activities. Such regulations apply to park areas except Kenai Fjords National Park, Katmai National Park, Glacier Bay National Park, Klondike Gold Rush National Historical Park, Sitka National Historical Park, and parts of Denali National Park. The regulations in Subpart B amend in part the general regulations contained in this chapter and the regulations contained in Subpart A of this Part 13.

(d) Subpart C of this Part 13 contains special regulations for specific park areas. Such regulations amend in part the general regulations contained in this chapter and the regulations contained in Subparts A and B of this Part 13.

(e) The regulations contained in this Part 13 are applicable only on federally owned lands within the boundaries of any park area. For purposes of this part, "federally owned lands" means land interests held or retained by the United States, but does not include those land interests: (1) Tentatively approved, legislatively conveyed, or patented to the State of Alaska; or (2) interim conveyed or patented to a Native Corporation or person.

### § 13.3 Penalties.

Any person convicted of violating any provision of the regulations contained in this Part 13, or as the same may be amended or supplemented, may be punished by a fine not exceeding \$500 or by imprisonment not exceeding 6 months, or both, and may be adjudged to pay all costs of the proceedings (16 U.S.C. 3).

### § 13.4 Information collection.

The information collection requirements contained in §§ 13.13, 13.14, 13.15, 13.16, 13.17, 13.31, 13.44, 13.45, 13.49, and 13.51 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1024-0015. The information is being collected to solicit information necessary for the Superintendent to issue permits and other benefits. This information will be used to grant statutory or administrative benefits. In all sections except 13.13, the obligation to respond is required to obtain a benefit. In § 13.13, the obligation to respond is mandatory.



**\*\* § 36.10 Access to inholdings.**

(a) This section sets forth the procedures to provide adequate and feasible access to inholdings within areas in accordance with section 1110(b) of ANILCA. As used in this section, the term:

(1) "Adequate and feasible access" means a route and method of access that is shown to be reasonably necessary and economically practicable but not necessarily the least costly alternative for achieving the use and development by the applicant on the applicant's nonfederal land or occupancy interest.

(2) "Area" also includes public lands administered by the BLM designated as wilderness study areas.

(3) "Effectively surrounded by" means that physical barriers prevent adequate and feasible access to State or private lands or valid interests in lands except across an area(s). Physical barriers include but are not limited to rugged mountain terrain, extensive marsh areas, shallow water depths and the presence of ice for large periods of the year.

(4) "Inholding" means State-owned or privately owned land, including subsurface rights of such owners underlying public lands or a valid mining claim or other valid occupancy that is within or is effectively surrounded by one or more areas.

(b) It is the purpose of this section to ensure adequate and feasible access across areas for any person who has a valid inholding. A right-of-way permit for access to an inholding pursuant to this section is required only when this part does not provide for adequate and feasible access without a right-of-way permit.

(c) Applications for a right-of-way permit for access to an inholding shall be filed with the appropriate Federal agency on a SF 299. Mining claimants who have acquired their rights under the General Mining Law of 1872 may file their request for access as a part of their plan of operations. The appropriate Federal agency may require the mining claimant applicant to file a SF 299, if in its discretion, it determines that more complete information is needed. Applicants should ensure that the following information is provided:

(1) Documentation of the property interest held by the applicant including, for claimants under the General Mining Law of 1872, as amended (30 U.S.C. 21-54), a copy of the location notice and recordings required by 43 U.S.C. 1744;

(2) A detailed description of the use of the inholding for which the applied for right-of-way permit is to serve; and

(3) If applicable, rationale demonstrating that the inholding is effectively surrounded by an area(s).

(d) The application shall be filed in the same manner as under § 36.4 and shall be reviewed and processed in accordance with §§ 36.5 and 36.6.

(e)(1) For any applicant who meets the criteria of paragraph (b) of this section, the appropriate Federal agency shall specify in a right-of-way permit the route(s) and method(s) of access across the area(s) desired by the applicant, unless it is determined that:

(i) The route or method of access would cause significant adverse impacts on natural or other values of the area and adequate and feasible access otherwise exists; or

(ii) The route or method of access would jeopardize public health and safety and adequate and feasible access otherwise exists; or

(iii) The route or method is inconsistent with the management plan(s) for the area or purposes for which the area was established and adequate and feasible access otherwise exists; or

(iv) The method is unnecessary to accomplish the applicant's land use objective.

(2) If the appropriate Federal agency makes one of the findings described in paragraph (e)(1) of this Section, another alternate route(s) and/or method(s) of access that will provide the applicant adequate and feasible access shall be specified by that Federal agency in the right-of-way permit after consultation with the applicant.

(f) All right-of-way permits issued pursuant to this section shall be subject to terms and conditions in the same manner as right-of-way permits issued pursuant to § 36.9.

(g) The decision by the appropriate Federal agency under this section is the final administrative decision.

**\*\* § 36.11 Special access.**

(a) This section implements the provisions of section 1110(a) of ANILCA regarding use of snowmachines, motorboats, nonmotorized surface transportation, aircraft, as well as off-road vehicle use.

As used in this section, the term:

(1) "Area" also includes public lands administered by the BLM and designated as wilderness study areas.

(2) "Adequate snow cover" shall mean 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.

(b) Nothing in this section affects the use of snowmobiles, motorboats and nonmotorized means of surface transportation traditionally used by rural residents engaged in subsistence activities, as defined in Title VIII of ANILCA.

(c) The use of snowmachines (during periods of adequate snow cover and frozen river conditions) for traditional activities (where such activities are permitted by ANILCA or other law) and for travel to and from villages and homesites and other valid occupancies is permitted within the areas, except where such use is prohibited or otherwise restricted by the appropriate Federal agency in accordance with the procedures of paragraph (h) of this section.

(d) Motorboats may be operated on all area waters, except where such use is prohibited or otherwise restricted by the appropriate Federal agency in accordance with the procedures of paragraph (h) of this section.

(e) The use of nonmotorized surface transportation such as domestic dogs, horses and other pack or saddle animals is permitted in areas except where such use is prohibited or otherwise restricted by the appropriate Federal agency in accordance with the procedures of paragraph (h) of this section.

(f) Aircraft.

(1) Fixed-wing aircraft may be landed and operated on lands and waters within areas, except where such use is prohibited or otherwise restricted by the appropriate Federal agency, including closures or restrictions pursuant to the closures of paragraph (h) of this section. The use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish and wildlife for subsistence uses therein is prohibited, except as provided in 36 CFR 13.45. The operation of aircraft resulting in the harassment of wildlife is prohibited.



(2) In imposing any prohibitions or restrictions on fixed-wing aircraft use the appropriate Federal agency shall:

(i) Publish notice of prohibition or restrictions in "Notices to Airmen" issued by the Department of Transportation; and

(ii) Publish permanent prohibitions or restrictions as a regulatory notice in the United States Flight Information Service "Supplement Alaska."

(3) Except as provided in paragraph (f)(3)(i) of this section, the owners of any aircraft downed after December 2, 1980, shall remove the aircraft and all component parts thereof in accordance with procedures established by the appropriate Federal agency. In establishing a removal procedure, the appropriate Federal agency is authorized to establish a reasonable date by which aircraft removal operations must be complete and determine times and means of access to and from the downed aircraft.

(i) The appropriate Federal agency may waive the requirements of this paragraph upon a determination that the removal of downed aircraft would constitute an unacceptable risk to human life, or the removal of a downed aircraft would result in extensive resource damage, or the removal of a downed aircraft is otherwise impracticable or impossible.

(ii) Salvaging, removing, possessing or attempting to salvage, remove or possess any downed aircraft or component parts thereof is prohibited, except in accordance with a removal procedure established under this paragraph and as may be controlled by the other laws and regulations.

(4) The use of a helicopter in any area other than at designated landing areas pursuant to the terms and conditions of a permit issued by the appropriate Federal agency, or pursuant to a memorandum of understanding between the appropriate Federal agency and another party, or involved in emergency or search and rescue operations is prohibited.

(9) Off-road vehicles.

(1) The use of off-road vehicles (ORV) in locations other than established roads and parking areas is prohibited, except on routes or in areas designated by the appropriate Federal agency in accordance with Executive Order 11644, as amended or pursuant to a valid permit as prescribed in paragraph (g)(2) of this section or in §§ 36.10 or 36.12.

(2) The appropriate Federal agency is authorized to issue permits for the use of ORVs on existing ORV trails located in areas (other than in areas designated as part of the National Wilderness

Preservation System) upon a finding that such ORV use would be compatible with the purposes and values for which the area was established. The appropriate Federal agency shall include in any permit such stipulations and conditions as are necessary for the protection of those purposes and values.

(h) Closure procedures.

(1) The appropriate Federal agency may close an area on a temporary or permanent basis to use of aircraft, snowmachines, motorboats or nonmotorized surface transportation only upon a finding by the agency that such use would be detrimental to the resource values of the area.

(2) Temporary closures.

(i) Temporary closures shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures and other locations as appropriate.

(ii) A temporary closure shall not exceed 12 months.

(3) Permanent closures shall be published by rulemaking in the Federal Register with a minimum public comment period of 60 days and shall not be effective until after a public hearing(s) is held in the affected vicinity and other locations as deemed appropriate by the appropriate Federal agency.

(4) Temporary and permanent closures shall be (i) publishing at least once in a newspaper of general circulation in Alaska and in a local newspaper, if available; posted at community post offices within the vicinity affected; made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity; and designated on a map which shall be available for public inspection at the office of the appropriate Federal agency and other places convenient to the public; or (ii) designated by posting the area with appropriate signs; or (iii) both.

(5) In determining whether to open an area that has previously been closed pursuant to the provisions of this section, the appropriate Federal agency shall provide notice in the Federal Register and shall, upon request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(6) Nothing in this section shall limit the authority of the appropriate Federal agency to restrict or limit uses of an area under other statutory authority.



**\* \* § 36.12 Temporary access.**

(i) Except as otherwise specifically permitted under the provisions of this section, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

(j) Any person convicted of violating any provision of the regulations contained in this section, or as the same may be amended or supplemented, may be punished by a fine or by imprisonment in accordance with the penalty provisions applicable to the area.

(a) For the purposes of this section, the term:

(1) "Area" also includes public lands administered by the BLM designated as wilderness study areas or managed to maintain the wilderness character or potential thereof, and the National Petroleum Reserve—Alaska.

(2) "Temporary access" means limited, short-term (i.e., up to one year from issuance of the permit) access which does not require permanent facilities for access to State or private lands.

(b) This section is applicable to State and private landowners who desire temporary access across an area for the purposes of survey, geophysical, exploratory and other temporary uses of such non-federal lands, and where such temporary access is not affirmatively provided for in §§ 36.10 and 36.11. State and private landowners meeting the criteria of § 36.10(b) are directed to use the procedures of § 36.10 to obtain temporary access.

(c) A landowner requiring temporary access across an area for survey, geophysical, exploratory or similar temporary activities shall apply to the appropriate Federal agency for an access permit by providing the relevant information requested in the SF 299.

(d) The appropriate Federal agency shall grant the desired temporary access whenever it is determined, after compliance with the requirements of NEPA, that such access will not result in permanent harm to the area's resources. The area manager shall include in any permit granted such stipulations and conditions on temporary access as are necessary to ensure that the access granted would not be inconsistent with the purposes for which the area was established and to ensure that no permanent harm will result to the area's resources and section 810 of ANILCA is complied with.

**§ 13.17 Cabins and other structures.**

(a) *Purpose.* It is the purpose of this section to provide procedures and guidance for those occupying and using existing cabins and those wishing to construct new cabins within park areas.

(b) *Existing cabins or other structures.*

(1) This subsection applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(2) Cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimants to these structures pursuant to a nontransferable, renewable permit. This use and occupancy shall be for terms of five years. *Provided, however,* That the claimant to the structure, by application:

(i) Reasonably demonstrates by affidavit, bill of sale or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(ii) Submits an acceptable photograph or sketch which accurately depicts the cabin or structure and a map showing its geographic location;

(iii) Agrees to vacate and remove all personal property from the cabin or structure upon expiration of the permit;

(iv) Acknowledges in the permit that he/she has no interest in the real property on which the cabin or structure is located; and

(v) Submits a listing of the names of all immediate family members residing in the cabin or structure.

Permits issued under the provisions of this paragraph shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure under permit. Renewal will occur unless the Superintendent determines after notice and hearing, and on the basis of substantial evidence in the administrative record as a whole, that the use under the permit is causing or may cause significant detriment to the principal purposes for which the park area was established. The Superintendent's decision may be appealed pursuant to the provisions of 43 CFR 4.700.



(3) Cabins or other structures, the occupancy or use of which began between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant to these structures pursuant to a nontransferable, nonrenewable permit. This use and occupancy shall be for a maximum term of 1 year: *Provided, however*, That the claimant, by application, complies with § 13.17(c)(1) (i) through (iv) above. Permits issued under the provisions of this paragraph may be extended by the Superintendent, subject to reasonable regulations, for a period not to exceed one year for such reasons as the Superintendent deems equitable and just.

(4) Cabins or other structures, construction of which began after December 1, 1978, shall not be available for use and occupancy, unless authorized under the provisions of paragraph (d) of this section.

(5) Cabins or other structures, not under permit, shall be used only for official government business: *Provided, however*, That during emergencies involving the safety of human life, or where designated for public use by the Superintendent through the posting of signs, these cabins may be used by the general public.

(c) *New Cabins or Other Structures Necessary for Subsistence Uses or Otherwise Authorized by Law.* The Superintendent may issue a permit under such conditions as he/she may prescribe for the construction, reconstruction, temporary use, occupancy, and maintenance of new cabins or other structures when he/she determines that the use is necessary to accommodate reasonably subsistence uses or is otherwise authorized by law. In determining whether to permit the use, occupancy, construction, reconstruction or maintenance of cabins or other structures, the Superintendent shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation and other management considerations necessary to ensure that the activities authorized pursuant to this section are compatible with the purposes for which the park area was established.

(d) *Existing Cabin Leases or Permits.* Nothing in this section shall preclude the renewal or continuation of valid leases or permits in effect as of December 2, 1980, for cabins, homesites, or similar structures on federally owned lands. Unless the Superintendent issues specific findings, following notice and

an opportunity for the leaseholder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat or a significant impairment to the purposes for which the park area was established, he/she shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit subject to such reasonable regulations as he/she prescribe in keeping with the management objectives of the park area. Subject to the provisions of the original lease or permit, nothing in this paragraph shall necessarily preclude the Superintendent from transferring such a lease or permit to another person at the election or death of the original permittee or lessee.

#### § 13.18 Camping and picnicking.

(a) *Camping.* Camping is permitted in park areas except where such use is prohibited or otherwise restricted by the Superintendent in accordance with the provisions of § 13.30, or as set forth for specific park areas in Subpart C of this part.

(b) *Picnicking.* Picnicking is permitted in park areas except where such activity is prohibited by the posting of appropriate signs.

#### § 13.19 Weapons, traps and nets.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(b) Firearms may be carried within park areas in accordance with applicable Federal and State laws, except where such carrying is prohibited or otherwise restricted pursuant to § 13.30.

(c) Traps, bows and other implements authorized by State and Federal law for the taking of fish and wildlife may be carried within National Preserves only during those times when the taking of fish and wildlife is authorized by applicable law or regulation.

(d) In addition to the authorities provided in paragraphs (b) and (c) of this section, weapons (other than firearms) traps and nets may be possessed within park areas provided such weapons, traps or nets are within or upon a device or animal used for transportation and are unloaded and cased or otherwise packed in such a manner as to prevent their ready use while in a park area.

(e) Notwithstanding the provisions of this section, local rural residents who are authorized to engage in subsistence

uses, including the taking of wildlife pursuant to § 13.48, may use, possess, or carry traps, nets and other weapons in accordance with applicable State and Federal laws.

#### § 13.20 Preservation of natural features.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. McKinley National Park, Glacier Bay National Monument, and Katmai National Monument.

(b) *Renewable Resources.* The gathering or collecting, by hand and for personal use only, of the following renewable resources is permitted:

(1) Natural plant food items, including fruits, berries and mushrooms, but not including threatened or endangered species;

(2) Driftwood and uninhabited seashells;

(3) Such plant materials and minerals as are essential to the conduct of traditional ceremonies by Native Americans; and

(4) Dead or downed wood for use in fires within park areas.

(c) *Rocks and Minerals.* Surface collection, by hand (including hand-held gold pans) and for personal recreational use only, of rocks and minerals is permitted: *Provided, however*, That (1) collection of silver, platinum, gemstones and fossils is prohibited, and (2) collection methods which may result in disturbance of the ground surface, such as the use of shovels, pickaxes, sluice boxes, and dredges, are prohibited.

(d) *Closure and Notice.* Under conditions where it is found that significant adverse impact on park resources, wildlife populations, subsistence uses, or visitor enjoyment of resources will result, the Superintendent shall prohibit the gathering or otherwise restrict the collecting of these items. Portions of a park area in which closures or restrictions apply shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection in the office of the Superintendent, or (2) designated by the posting of appropriate signs, or (3) both.

(e) *Subsistence.* Nothing in this section shall apply to local rural residents authorized to take renewable resources.

#### § 13.21 Taking of fish and wildlife.

(a) *Subsistence.* Nothing in this section shall apply to the taking of fish and wildlife for subsistence uses.



(b) *Fishing.* Fishing is permitted in all park areas in accordance with applicable State and Federal law, and such laws are hereby adopted and made a part of these regulations to the extent they are not inconsistent with § 2.13 of this chapter. With respect to the Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of the Wrangell-St. Elias National Preserve, and the Dry Bay area of Glacier Bay National Preserve, the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law—including any use of park area lands for campsites, cabins, motorized vehicles, and aircraft landings on existing airstrips which is directly incident to the exercise of such rights or privileges—may continue: *Provided, however,* That the Superintendent may restrict the use of park area lands directly incident to the exercise of these rights or privileges if he/she determines, after conducting a public hearing in the affected locality, that such use of park area lands constitutes a significant expansion of the use of park area lands beyond the level of such use during 1979.

(c) *Hunting and Trapping.* Hunting and trapping are permitted in all National Preserves in accordance with applicable State and Federal law, and such laws are hereby adopted and made a part of these regulations: *Provided, however,* That engaging in trapping activities, as the employee of another person is prohibited.

(d) *Closures and Restrictions.* The Superintendent may prohibit or restrict the taking of fish or wildlife in accordance with the provisions of § 13.30. Except in emergency conditions, such restrictions shall take effect only after consultation with the appropriate State agency having responsibility over fishing, hunting, or trapping and representatives of affected users.

#### § 13.22 Unattended or abandoned property.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park and Sitka National Historical Park, or as further restricted for specific park areas in Subpart C of this part.

(b) Leaving any snowmachine, vessel, off-road vehicle or other personal property unattended for longer than 12 months without prior permission of the Superintendent is prohibited, and any property so left may be impounded by the Superintendent.

(c) The Superintendent may (1) designate areas where personal property may not be left unattended for any time period, (2) establish limits on the amount, and type of personal property

that may be left unattended, (3) prescribe the manner in which personal property may be left unattended, or (4) establish limits on the length of time personal property may be left unattended. Such designations and restrictions shall be (i) published in at least one newspaper of general circulation within the State, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected community, and designated on a map which shall be available for public inspection at the office of the Superintendent, or (ii) designated by the posting of appropriate signs or (iii) both.

(d) In the event unattended property interferes with the safe and orderly management of a park area or is causing damage to the resources of the area, it may be impounded by the Superintendent at any time.

#### § 13.30 Closure procedures.

(a) *Authority.* The Superintendent may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrict an activity on an emergency basis, the Superintendent shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the park area was established.

(c) *Emergency Closures.* (1) Emergency closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation shall be made after notice and hearing; (2) emergency closures or restrictions relating to the taking of fish and wildlife shall be accompanied by notice and hearing; (3) other emergency closures shall become effective upon notice as prescribed in § 13.30(f); and (4) no emergency closure or restriction shall extend for a period exceeding 30 days, nor may it be extended.

(d) *Temporary closures or restrictions.* (1) Temporary closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation or to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as

appropriate; (2) other temporary closures shall be effective upon notice as prescribed in § 13.30(f); (3) temporary closures or restrictions shall not extend for a period exceeding 12 months and may not be extended.

(e) *Permanent closures or restrictions.* Permanent closures or restrictions shall be published as rulemaking in the **Federal Register** with a minimum public comment period of 60 days and shall be accompanied by public hearings in the area affected and other locations as appropriate.

(f) *Notice.* Emergency, temporary and permanent closures or restrictions shall be (1) published in at least one newspaper of general circulation in the State and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Superintendent and other places convenient to the public; or (2) designated by the posting of appropriate signs; or (3) both.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Superintendent shall provide notice in the **Federal Register** and shall, upon request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(h) Except as otherwise specifically permitted under the provisions of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

#### § 13.31 Permits.

(a) *Application.* (1) Application for a permit required by any section of this part shall be submitted to the Superintendent having jurisdiction over the affected park area, or in the absence of the Superintendent, the Regional Director. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application.

(2) The Superintendent shall grant or deny the application in writing within 45 days. If this deadline cannot be met for good cause, the Superintendent shall so notify the applicant in writing. If the permit application is denied, the Superintendent shall specify in writing the reasons for the denial.



(b) *Denial and appeal procedures.* (1) An applicant whose application for a permit, required pursuant to this part, has been denied by the Superintendent has the right to have the application reconsidered by the Regional Director by contacting him/her within 180 days of the issuance of the denial. For purposes of reconsideration, the permit applicant shall present the following information:

(i) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in the section under which the permit application is made.

(ii) The basis for the permit applicant's disagreement with the Superintendent's findings and conclusions; and

(iii) Whether or not the permit applicant requests an informal hearing before the Regional Director.

(2) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

## Subpart B—Subsistence

### § 13.40 Purpose and policy.

(a) Consistent with the management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each park area was established, designated, or expanded by ANILCA, the purpose of this subpart is to provide the opportunity for local rural residents engaged in a subsistence way of life to do so pursuant to applicable State and Federal law.

(b) Consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of park areas is to cause the least adverse impact possible on local rural residents who depend upon subsistence uses of the resources of the public lands in Alaska.

(c) Nonwasteful subsistence uses of fish, wildlife and other renewable resources by local rural residents shall be the priority consumptive uses of such resources over any other consumptive uses permitted within park areas pursuant to applicable State and Federal law.

(d) Whenever it is necessary to restrict the taking of a fish or wildlife

population within a park area for subsistence uses in order to assure the continued viability of such population or to continue subsistence uses of such population, the population shall be allocated among local rural residents engaged in subsistence uses in accordance with a subsistence priority system based on the following criteria:

(1) Customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) Local residency; and

(3) Availability of alternative resources.

(e) The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within park areas to the extent such regulation is consistent with applicable Federal law, including but not limited to ANILCA.

(f) Nothing in this subpart shall be construed as permitting a level of subsistence use of fish and wildlife within park areas to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations of fish and wildlife.

### § 13.41 Applicability.

Subsistence uses by local rural residents are allowed pursuant to the regulations of this Subpart in the following park areas:

(a) In national preserves;

(b) In Cape Krusenstern National Monument and Kobuk Valley National Park;

(c) Where such uses are traditional (as may be further designated for each park or monument in Subpart C of this part) in Aniakchak National Monument, Gates of the Arctic National Park, Lake Clark National Park, Wrangell-St. Elias National Park, and the Denali National Park addition.

### § 13.42 Definitions.

(a) *Local rural resident.* (1) As used in this part with respect to national parks and monuments, the term "local rural resident" shall mean either of the following:

(i) Any person who has his/her primary, permanent home within the resident zone as defined by this section, and whenever absent from this primary, permanent home, has the intention of returning to it. Factors demonstrating the location of a person's primary, permanent home may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska Department of Fish and Game, driver's license, and tax returns, and the location of registration to vote.

(ii) Any person authorized to engage in subsistence uses in a national park or monument by a subsistence permit issued pursuant to § 13.44.

(b) *Resident zone.* As used in this part, the term "resident zone" shall mean the area within, and the communities and areas near, a national park or monument in which persons who have customarily and traditionally engaged in subsistence uses within the national park or monument permanently reside. The communities and areas near a national park or monument included as a part of its resident zone shall be determined pursuant to § 13.43 and listed for each national park or monument in Subpart C of this part.

(c) *Subsistence uses.* As used in this part, the term "subsistence uses" shall mean the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade. For the purposes of this paragraph, the term—

(1) "Family" shall mean all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "Barter" shall mean the exchange of fish or wildlife or their parts taken for subsistence uses—

(i) For other fish or game or their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) "Customary trade" shall be limited to the exchange of furs for cash (and such other activities as may be designated for a specific park area in Subpart C of this part).

### § 13.43 Determination of resident zones.

(a) A resident zone shall include—

(1) the area within a national park or monument, and

(2) the communities and areas near a national park or monument which contain significant concentrations of rural residents who, without using aircraft as a means of access for purposes of taking fish or wildlife for subsistence uses (except in extraordinary cases where no reasonable alternative existed), have customarily and traditionally engaged in subsistence uses within a national park or monument. For purposes of



determining "significant" concentrations, family members shall also be included.

(b) After notice and comment, including public hearing in the affected local vicinity, a community or area near a national park or monument may be—

(1) Added to a resident zone, or

(2) Deleted from a resident zone, when such community or area does or does not meet the criteria set forth in paragraph (a) of this section, as appropriate.

(c) For purposes of this section, the term "family" shall mean all persons living within a rural resident's household on a permanent basis.

**§ 13.44 Subsistence permits for persons whose primary, permanent home is outside a resident zone.**

(a) Any rural resident whose primary, permanent home is outside the boundaries of a resident zone of a national park or monument may apply to the appropriate Superintendent pursuant to the procedures set forth in § 13.51 for a subsistence permit authorizing the permit applicant to engage in subsistence uses within the national park or monument. The Superintendent shall grant the permit if the permit applicant demonstrates that:

(1) Without using aircraft as a means of access for purposes of taking fish and wildlife for subsistence uses, the applicant has (or is a member of a family which has) customarily and traditionally engaged in subsistence uses within a national park or monument; or

(2) The applicant is a local rural resident within a resident zone for another national park or monument, or meets the requirements of paragraph (1) of this section for another national park or monument, and there exists a pattern of subsistence uses (without use of an aircraft as a means of access for purposes of taking fish and wildlife for subsistence uses) between the national park or monument previously utilized by the permit applicant and the national park or monument for which the permit applicant seeks a subsistence permit.

(b) In order to provide for subsistence uses pending application for and receipt of a subsistence permit, until August 1, 1981, any rural resident whose primary permanent home is outside the boundaries of a resident zone of a national park or monument and who meets the criteria for a subsistence permit set forth in paragraph (a) of this section may engage in subsistence uses in the national park or monument without a permit in accordance with applicable State and Federal law. Effective August 1, 1981, however, such

rural resident must have a subsistence permit as required by paragraph (a) of this section in order to engage in subsistence uses in the national park or monument.

(c) For purposes of this section, the term "family" shall mean all persons living within a rural resident's household on a permanent basis.

**§ 13.45 Prohibition of aircraft use.**

(a) Notwithstanding the provisions of § 13.12 the use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish or wildlife for subsistence uses within the national park or monument is prohibited except as provided in this section.

(b) *Exceptions.* (1) In extraordinary cases where no reasonable alternative exists, the Superintendent shall permit, pursuant to specified terms and conditions, a local rural resident of an "exempted community" to use aircraft for access to or from lands and water within a national park or monument for purposes of taking fish or wildlife for subsistence uses.

(i) A community shall qualify as an "exempted community" if, because of the location of the subsistence resources upon which it depends and the extraordinary difficulty of surface access to these subsistence resources, the local rural residents who permanently reside in the community have no reasonable alternative to aircraft use for access to these subsistence resources.

(ii) A community which is determined, after notice and comment (including public hearing in the affected local vicinity), to meet the description of an "exempted community" set forth in paragraph (b)(1) of this section shall be included in the appropriate special regulations for each park and monument set forth in Subpart C of this part.

(iii) A community included as an "exempted community" in Subpart C of this part may be deleted therefrom upon a determination, after notice and comment (including public hearing in the affected local vicinity), that it does not meet the description of an "exempted community" set forth in paragraph (b)(1) of this section.

(2) Any local rural resident aggrieved by the prohibition on aircraft use set forth in this section may apply for an exception to the prohibition pursuant to the procedures set forth in § 13.51. In extraordinary cases where no reasonable alternative exists, the Superintendent may grant the exception upon a determination that the location of the subsistence resources depended upon and the difficulty of surface access

to these resources, or other emergency situation, requires such relief.

(c) Nothing in this section shall prohibit the use of aircraft for access to lands and waters within a national park or monument for purposes of engaging in any activity allowed by law other than the taking of fish and wildlife. Such activities include, but are not limited to, transporting supplies.

**§ 13.46 Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.**

(a) Notwithstanding any other provision of this chapter, the use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within park areas except at those times and in those areas restricted or closed by the Superintendent.

(b) The Superintendent may restrict or close a route or area to use of snowmobiles, motorboats, dog teams, or other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses if the Superintendent determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or the purposes for which the park area was established.

(c) No restrictions or closures shall be imposed without notice and a public hearing in the affected vicinity and other locations as appropriate. In the case of emergency situations, restrictions or closures shall not exceed sixty (60) days and shall not be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such extension is justified according to the factors set forth in paragraph (b) of this section. Notice of the proposed or emergency restrictions or closures and the reasons therefor shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if appropriate, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions and closures shall be designated on a map which shall be available for public inspection at the office of the



Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(d) Motorboats, snowmobiles, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated (1) in compliance with applicable State and Federal law, (2) in such a manner as to prevent waste or damage to the park areas, and (3) in such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

(e) At all times when not engaged in subsistence uses, local rural residents may use snowmobiles, motorboats, dog teams, and other means of surface transportation in accordance with §§ 13.10, 13.11, 13.12, and 13.14, respectively.

#### § 13.47 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law, including the provisions of §§ 2.13 and 13.21 of this chapter. *Provided, however,* That local rural residents in park areas where subsistence uses are allowed may fish with a net, seine, trap, or spear where permitted by State law. To the extent consistent with the provisions of this chapter, applicable State laws and regulations governing the taking of fish which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

#### § 13.48 Subsistence hunting and trapping

Local rural residents may hunt and trap wildlife for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law. To the extent consistent with the provisions of this chapter, applicable State laws and regulations governing the taking of wildlife which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

#### § 13.49 Subsistence use of timber and plant material.

(a) Notwithstanding any other provision of this part, the non-commercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in park areas where subsistence uses are allowed as follows:

(1) For live standing timber of diameter greater than three inches at ground height, the Superintendent may permit cutting in accordance with the specifications of a permit if such cutting is determined to be compatible with the purposes for which the park area was established;

(2) For live standing timber of diameter less than three inches at ground height, cutting is permitted unless restricted by the Superintendent.

(b) The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit in park areas where subsistence uses are allowed.

(c)(1) Notwithstanding any other provision of this part, the Superintendent, after notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular plant population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For the purposes of this section, the term "temporarily" shall mean only so long as reasonably necessary to achieve the purposes of the closure.

(2) If the Superintendent determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular plant population, the Superintendent may immediately close all or any portion of a park area to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(3) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and at least one local newspaper if available, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected

community within or near the park area, or by the posting of signs in the vicinity of the restrictions, or both.

#### § 13.50 Closure to subsistence uses of fish and wildlife.

(a) Notwithstanding any other provision of this part, the Superintendent, after consultation with the State and adequate notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For purposes of this section, the term "temporarily" shall mean only so long as reasonably necessary to achieve the purposes of the closure.

(b) If the Superintendent determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Superintendent may immediately close all or any portion of a park area to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(c) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions, or both.

#### § 13.51 Application procedures for subsistence permits and aircraft exceptions.

(a) Any person applying for the subsistence permit required by § 13.44(a), or the exception to the prohibition on aircraft use provided by



§ 13.45(b)(2), shall submit his/her application to the Superintendent of the appropriate national park or monument. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application. Each application must include (1) a statement which acknowledges that providing false information in support of the application is a violation of Section 1001 of Title 18 of the United States Code, and (2) additional statements or documentation which demonstrates that the applicant satisfies the criteria set forth in § 13.44(a) for a subsistence permit or § 13.45(b)(2) for the aircraft exception, as appropriate. Except in extraordinary cases for good cause shown, the Superintendent shall decide whether to grant or deny the application in a timely manner not to exceed forty-five (45) days following the receipt of the completed application. Should the Superintendent deny the application, he/she shall include in the decision a statement of the reasons for the denial and shall promptly forward a copy to the applicant.

(b) An applicant whose application has been denied by the Superintendent has the right to have his/her application reconsidered by the Alaska Regional Director by contacting the Regional Director within 180 days of the issuance of the denial. The Regional Director may extend the 180-day time limit to initiate a reconsideration for good cause shown by the applicant. For purposes of reconsideration, the applicant shall present the following information:

(1) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in paragraph (a) of this section:

(2) The basis for the applicant's disagreement with the Superintendent's findings and conclusions; and

(3) Whether or not the applicant requests an informal hearing before the Regional Director.

(c) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

#### **Subpart C—Special Regulations— Specific Park Areas in Alaska**

##### **§ 13.61 Bering Land Bridge National Preserve.**

(a) *Off-Road Vehicles.* The use of off-road vehicles for purposes of reindeer grazing may be permitted in accordance with a permit issued by the Superintendent.

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**§ 1.5 Closures and public use limits.**

(a) Consistent with applicable legislation and Federal administrative policies, and based upon a determination that such action is necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities, the superintendent may:

(1) Establish, for all or a portion of a park area, a reasonable schedule of visiting hours, impose public use limits, or close all or a portion of a park area to all public use or to a specific use or activity.

(2) Designate areas for a specific use or activity, or impose conditions or restrictions on a use or activity.

(3) Terminate a restriction, limit, closure, designation, condition, or visiting hour restriction imposed under paragraph (a)(1) or (2) of this section.

(b) Except in emergency situations, a closure, designation, use or activity restriction or condition, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, adversely affect the park's natural, aesthetic, scenic or cultural values, require a long-term or significant modification in the resource management objectives of the unit, or is of a highly controversial nature, shall be published as rulemaking in the **FEDERAL REGISTER**.

(c) Except in emergency situations, prior to implementing or terminating a restriction, condition, public use limit or closure, the superintendent shall prepare a written determination justifying the action. That determination shall set forth the reason(s) the restriction, condition, public use limit or closure authorized by paragraph (a) has been established, and an explanation of why less restrictive measures will not suffice, or in the case of a termination of a restriction, condition, public use limit or closure previously established under paragraph (a), a determination as to why the restriction is no longer necessary and a finding that the termination will not adversely impact park resources. This determination shall be available to the public upon request.

(d) To implement a public use limit, the superintendent may establish a permit, registration, or reservation system. Permits shall be issued in accordance with the criteria and procedures of § 1.6 of this chapter.

(e) Except in emergency situations, the public will be informed of closures, designations, and use or activity restrictions or conditions, visiting hours, public use limits, public use limit procedures, and the termination or relaxation of such, in accordance with § 1.7 of this chapter.

(f) Violating a closure, designation, use or activity restriction or condition, schedule of visiting hours, or public use limit is prohibited. When a permit is used to implement a public use limit, violation of the terms and conditions of a permit is prohibited and may result in the suspension or revocation of the permit.



APPENDIX C: MASTER MEMORANDUM OF UNDERSTANDING  
BETWEEN THE ALASKA DEPARTMENT OF FISH AND GAME  
AND THE NATIONAL PARK SERVICE

This Master Memorandum of Understanding between the State of Alaska, Department of Fish and Game, hereinafter referred to as the Department, and the U.S. Department of the Interior, National Park Service, hereinafter referred to as the Service, reflects the general policy guidelines within which the two agencies agree to operate.

WHEREAS, the Department, under the Constitution, laws, and regulations of the State of Alaska, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State on the sustained yield principle, subject to preferences among beneficial uses; and

WHEREAS, the Service, by authority of the Constitution, laws of Congress, executive orders, and regulations of the U.S. Department of the Interior is responsible for the management of Service lands in Alaska and the conservation of resources on these lands, including conservation of healthy populations of fish and wildlife within National Preserves and natural and healthy populations within National Parks and Monuments; and

WHEREAS, the Department and the Service share a mutual concern for fish and wildlife resources and their habitats and desire to develop and maintain a cooperative relationship which will be in the best interests of both parties, the fish and wildlife resources and their habitats, and produce the greatest public benefit; and

WHEREAS, the Alaska National Interest Lands Conservation Act (ANILCA) and subsequent implementing Federal regulations recognize that the resources and uses of Service lands in Alaska are substantially different than those of similar lands in other states and mandate continued subsistence uses in designated National Parks plus sport hunting and fishing, subsistence, and trapping uses in National Preserves under applicable State and Federal laws and regulations; and

WHEREAS, the Department and the Service recognize the increasing need to coordinate resource planning and policy development;

NOW, THEREFORE, the parties hereto do hereby agree as follows:

(copy)

THE DEPARTMENT OF FISH AND GAME AGREES:

1. To recognize the Service's responsibility to conserve fish and wildlife and their habitat and regulate human use on Service lands in Alaska, in accordance with the National Park Service Organic Act, ANILCA, and other applicable laws.
2. To manage fish and resident wildlife populations in their natural species diversity on Service lands, recognizing that nonconsumptive use and appreciation by the visiting public is a primary consideration.
3. To consult with the Regional Director or his representative in a timely manner and comply with applicable Federal laws and regulations before embarking on management activities on Service lands.
4. To act as the primary agency responsible for management of subsistence uses of fish and wildlife on State and Service lands, pursuant to applicable State and Federal laws.
5. To recognize that National Park areas were established, in part, to "assure continuation of the natural process of biological succession" and "to maintain the environmental integrity of the natural features found in them."

THE NATIONAL PARK SERVICE AGREES:

1. To recognize the Department as the agency with the primary responsibility to manage fish and resident wildlife within the State of Alaska.
2. To recognize the right of the Department to enter onto Service lands after timely notification to conduct routine management activities which do not involve construction, disturbance to the land, or alterations of ecosystems.
3. To manage the fish and wildlife habitat on Service lands so as to ensure conservation of fish and wildlife populations and their habitats in their natural diversity.
4. To cooperate with the Department in planning for management activities on Service lands which require permits, environmental assessments, compatibility assessments, or similar regulatory documents by responding to the Department in a timely manner.
5. To consider carefully the impact on the State of Alaska of proposed treaties or international agreements relating to fish and wildlife resources which could diminish the jurisdictional authority of the State, and to consult freely with the State when such treaties or agreements have a significant impact on the State.



(copy)

6. To review Service policies in consultation with the Department to determine if modified or special policies are needed for Alaska.
7. To adopt Park and Preserve management plans whose provisions are in substantial agreement with the Department's fish and wildlife management plans, unless such plans are determined formally to be incompatible with the purposes for which the respective Parks and Preserves were established.
8. To utilize the State's regulatory process to the maximum extent allowed by Federal law in developing new or modifying existing Federal regulations or proposing changes in existing State regulations governing or affecting the taking of fish and wildlife on Service lands in Alaska.
9. To recognize the Department as the primary agency responsible for policy development and management direction relating to subsistence uses of fish and wildlife resources on State and Service lands, pursuant to applicable State and Federal laws.
10. To consult and cooperate with the Department in the design and conduct of Service research or management studies pertaining to fish and wildlife.
11. To consult with the Department prior to entering into any cooperative land management agreements.
12. To allow under special use permit the erection and maintenance of facilities or structures needed to further fish and wildlife management activities of the Department on Service lands, provided their intended use is not in conflict with the purposes for which affected Parks or Preserves were established.

THE DEPARTMENT OF FISH AND GAME AND THE NATIONAL PARK SERVICE MUTUALLY AGREE:

1. To coordinate planning for management of fish and wildlife resources on Service lands so that conflicts arising from differing legal mandates, objectives, and policies either do not arise or are minimized.
2. To consult with each other when developing policy, legislation, and regulations which affect the attainment of wildlife resource management goals and objectives of the other agency.
3. To provide to each other upon request fish and wildlife data, information, and recommendations for consideration in the formulation of policies, plans, and management programs regarding fish and wildlife resources on Service lands.

(copy)

4. To recognize that the taking of fish and wildlife by hunting, trapping, or fishing on certain Service lands in Alaska is authorized in accordance with applicable State and Federal law unless State regulations are found to be incompatible with documented Park or Preserve goals, objectives or management plans.
5. To recognize for maintenance, rehabilitation, and enhancement purposes, that under extraordinary circumstances the manipulation of habitat or animal populations may be an important tool of fish and wildlife management to be used cooperatively on Service lands and waters in Alaska by the Service or the Department when judged by the Service, on a case by case basis, to be consistent with applicable law and Park Service policy.
6. That implementation by the Secretary of the Interior of subsistence program recommendations developed by Park and Park Monument Subsistence Resource Commissions pursuant to ANILCA Section 808(b) will take into account existing State regulations and will use the State's regulatory process as the primary means of developing Park subsistence use regulations.
7. To neither make nor sanction any introduction or transplant of any fish or wildlife species on Service lands without first consulting with the other party and complying with applicable Federal and State laws and regulations.
8. To cooperate in the development of fire management plans which may include establishment of priorities for the control of wildfires and use of prescribed fires.
9. To consult on studies for additional wilderness designations and in development of regulations for management of wilderness areas on Service lands.
10. To resolve, at field office levels, all disagreements pertaining to the cooperative work of the two agencies which arise in the field and to refer all matters of disagreement that cannot be resolved at equivalent field levels to the Regional Director and to the Commissioner for resolution before either agency expresses its position in public.
11. To meet annually to discuss matters relating to the management of fish and wildlife resources on, or affected by, Service lands.
12. To develop such supplemental memoranda of understanding between the Commissioner and the Regional Director as may be required to implement the policies contained herein.
13. That the Master Memorandum of Understanding is subject to the availability of appropriated State and Federal funds.



(copy)

14. That this Master Memorandum of Understanding establishes procedural guidelines by which the parties shall cooperate, but does not create legally enforceable obligations or rights.
15. That this Master Memorandum of Understanding shall become effective when signed by the Commissioner of the Alaska Department of Fish and Game and the Alaska Regional Director of the National Park Service and shall continue in force until terminated by either party by providing notice in writing 120 days in advance of the intended date of termination.
16. That amendments to this Master Memorandum of Understanding may be proposed by either party and shall become effective upon approval by both parties.

STATE OF ALASKA

Department of Fish and Game

U.S. DEPARTMENT OF THE INTERIOR

National Park Service

By /s/ Ronald O. Skoog

Ronald O. Skoog

Commissioner

By /s/ John E. Cook

John E. Cook

Regional Director, Alaska

Date 14 October 1982

Date October 5, 1982

## APPENDIX D: ANILCA, SECTION 810, SUBSISTENCE EVALUATION

### INTRODUCTION

Section 810(a) of ANILCA states:

In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provisions of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency--

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 805;

(2) gives notice of, and holds, a hearing in the vicinity of the area involved; and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

The purposes for which the preserve was established and will be managed are presented in title II of ANILCA (see appendix A).

Subsistence uses are to be permitted in conservation system units in accordance with title VIII of ANILCA. Section 102 defines the term "conservation system unit" to include any national park system unit in Alaska.

### EVALUATION CRITERIA FOR SIGNIFICANT RESTRICTION OF SUBSISTENCE ACTIVITIES

The effect of the proposal or an alternative on subsistence uses or needs would be considered significant if one of the following criteria was met:



a large reduction in the abundance of harvestable resources because of adverse impacts on habitat or increased competition from sport harvests

a major redistribution of resources because of an alteration of habitat or migration routes

a substantial interference with access for subsistence purposes as a result of physical or legal barriers

## PROPOSED ACTION AND ALTERNATIVES ON FEDERAL LANDS

The National Park Service is proposing to implement a general management plan for Bering Land Bridge National Preserve to guide management of the area for the next five to 10 years. The plan addresses management of natural and cultural resources, visitor use and development, land management, and administration. The proposed action and alternatives are as follows:

minimum management to accommodate existing and projected use (proposed action)

continuation of existing policies (alternative A)

increased use and development, with increases in consumptive and nonconsumptive uses in the preserve (alternative B)

## AFFECTED ENVIRONMENT

There is extensive subsistence use in the preserve by the residents of Shishmaref, and selected areas are used by the residents of Kotzebue, Deering, Wales, and Nome. Kotzebue and Deering residents use the Cape Espenberg area, although Deering residents primarily use the Goodhope Bay coast. The people of Wales utilize the westernmost areas of the preserve along Ikpek and Arctic lagoons as well as some inland areas. Subsistence use by residents of Nome may extend into the preserve up the Kuzitrin River or into the Serpentine Hot Springs valley. For a more detailed discussion, see the discussions of subsistence activities in the "Bering Land Bridge Environment" section of this document.

## EVALUATION OF ALTERNATIVES

This section focuses on any possible restrictions of subsistence activities, the availability of other lands for subsistence purposes, and other alternatives to reduce or eliminate the use of public lands needed for subsistence purposes. Potential restrictions of existing subsistence activities were determined by applying the evaluation criteria outlined above. The Draft General Management Plan/Environmental Assessment considers the full range of alternatives.

## Restrictions of Subsistence Activities

The Potential for a Large Reduction in the Abundance of Harvestable Resources. Natural cycles in populations would be allowed to continue in the preserve under all alternatives, and the National Park Service would not attempt to artificially maintain populations.

Under alternatives A and B, the possibility for adverse effects on habitat would be greater than under the proposed action because there would not be a comprehensive approach to researching and monitoring the preserve's resources, including those important to subsistence users. In both alternatives A and B adverse impacts on habitat could go undetected until they reached a serious or obvious stage. The likelihood of this happening is not considered significant in view of the minimum changes in resource conditions and uses expected over the next 10 years.

Alternative B would have the greatest potential for a reduction in harvestable resources due to increased competition from nonrural harvesters (sports hunters) because it would allow greater use of the preserve and its resources. However, use of the preserve would probably not increase significantly because of the remoteness of the area and the cost of getting there. Under alternative A and the proposed action, the preserve would not be promoted as a recreation destination, and only moderate increases in use would be expected over the next five to 10 years.

Conclusion: None of the alternatives, including the proposed action, would result in a large reduction in the population of any harvestable resource because of adverse effects on habitat or increased competition from nonrural harvesters.

The Potential for a Major Redistribution of Resources. The distribution, migration routes, and habitat location of subsistence resources are not expected to change under any of the alternatives. However, the expansion of the western arctic caribou herd into the preserve would be an additional subsistence resource that is not now available on the western Seward Peninsula. None of the alternatives would propose any direct NPS management action related to caribou because the state of Alaska is responsible for management of the herd.

Conclusion: None of the alternatives, including the proposed action, would result in a major redistribution of resources because of an alteration of habitat or migration route.

The Potential for a Substantial Interference with Subsistence Access. Access to the preserve for subsistence purposes is guaranteed under all alternatives by section 811 of ANILCA. Regulations implementing section 811 are already in place, and none of the alternatives would propose changes in those regulations.

Conclusion: None of the alternatives, including the proposed action, would result in a substantial interference with access for subsistence purposes.



#### Availability of Other Lands for the Proposed Action

No other lands are available for the proposed action because the preserve boundaries conform to specific purposes. There are, however, lands outside the preserve that are available for subsistence users. The proposed plan is consistent with the mandates of ANILCA, including title VIII, and the National Park Service organic act.

#### Other Alternatives to Reduce or Eliminate Use of Public Lands Needed for Subsistence Purposes

No alternatives that would reduce or eliminate the use of public lands needed for subsistence purposes were identified. Preparation of a general management plan is required by ANILCA, and the proposed plan is consistent with provisions of ANILCA related to subsistence. Subsistence users do utilize other lands outside the preserve, specifically those that are the most easily accessible and that can provide for their needs. They extend their activities to other areas as needed.

#### CONSULTATION AND COORDINATION

The Alaska Department of Fish and Game, the NANA Coastal Resources Service Area Board, and the Bering Straits Coastal Resources Service Area Board were consulted throughout preparation of the general management plan. Further information is contained in the "Consultation and Coordination" section of this document.

#### FINDINGS

This evaluation concludes that the proposed action would not result in a significant restriction of subsistence uses within Bering Land Bridge National Preserve.

## APPENDIX E: COST ESTIMATE

	<u>Proposal</u>	
	<u>Annual Operations</u>	<u>Development Costs*</u>
Staffing	\$ 324,000	
Operating Cost	648,000	
Cabin		45,850
Aircraft Charter	<u>33,000</u>	<u>          </u>
Total	\$1,005,000	\$ 45,850

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Note: The above estimates do not provide a true representation of operational costs for the preserve. Operational costs that are not possible to include at this stage of planning are costs of cooperative agreements and research. Cooperative agreements could be in the form of operating expenses, capital expenses, personnel, or technical assistance. Research programs will be specified in the resource management plan or in annual preserve budget requests.

\*Includes allowance for project supervision and contingencies.



APPENDIX F: CONSISTENCY DETERMINATION  
FOR ALASKA COASTAL MANAGEMENT PROGRAM

Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 USC 1451 et seq.), states that "each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state coastal management programs."

The Alaska Coastal Management Act of 1977, as amended, and the subsequent Alaska coastal management program (ACMP) and Final Environmental Impact Statement of 1979 set forth policy guidelines and standards to be used for reviewing projects. The Bering Straits and NANA coastal resource service areas boards are preparing district programs, but the programs have not been approved by the state or the U.S. Department of Commerce. Therefore, the standards established by the state of Alaska are applicable to Bering Land Bridge National Preserve.

The Alaska coastal management program identifies 12 primary categories that are to be used in consistency evaluations. The basis of the following consistency determination is this document. The highlights of the assessment are organized in the format of the ACMP standards. This determination considers not only the elements of the proposed plan, but also the elements of alternative proposals in the draft plan that relate to coastal land and water uses.

The categories of the Alaska coastal management program that are applicable to this plan are denoted by an asterisk in the following list:

coastal development	*
geophysical hazard areas	*
recreation	*
energy facilities	
transportation and utilities	
fish and seafood processing	
timber harvest and processing	
mining and mineral processing	
subsistence	*
habitats	*
air, land, and water quality	*
historic, prehistoric, and	
archeological resources	*

The following table evaluates the consistency of the alternatives with the requirements of each of the applicable categories.

### DETERMINATION

The draft general management plan for Bering Land Bridge National Preserve has been evaluated for consistency with the standards of the Alaska coastal management program. It has been determined by the National Park Service that the proposed plan conforms with all requirements of the program.



Table F-1: Consistency Determination for Alaska Coastal Management Program

ACMP Section	Policy	Evaluation of Preferred and Other Alternatives	Consistency Determination
6 AAC 80.040 Coastal Development	<p>(a) In planning for and approving development in coastal areas, districts and state agencies shall give, in the following order, priority to:</p> <ol style="list-style-type: none"> <li>1) water-dependent uses and activities;</li> <li>2) water-related uses and activities;</li> <li>3) uses and activities are neither water-dependent nor water-related for which there is no feasible and prudent inland alternative to meet the public need for the use or activity</li> </ol>	<p>(a) All of the alternatives emphasize non-developmental uses of the preserve (e.g., subsistence, dispersed recreation, research). In all alternatives, new facilities for reindeer grazing (primarily corrals) would be constructed within the preserve if demonstrated to be consistent with sound range management and other management mandates for the preserve.</p> <p>In alternative B, three new public use cabins would be constructed at yet to be determined locations. A new cabin would also be constructed at Serpentine Hot Springs. Mining and other development activities could take place on private lands within the preserve, but that would be the result of federal action. Separate consistency determinations would be required for any such developments.</p>	Consistent
6 AAC 80.050 Geophysical Hazard Areas	<p>(b) The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with CFR, Title 33, Parts 320-323, July 19, 1977.</p> <p>(a) Districts and state agencies shall identify known geophysical hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur.</p> <p>(b) Development in areas identified under (a) of this section may not be approved by the appropriate state or local authority until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided.</p>	<p>(b) None of the alternatives proposes discharging any dredged or fill material into coastal waters.</p> <p>None of the alternatives proposes developments in any known geophysical hazard area.</p>	Consistent
6 AAC 80.060 Recreation	<p>(a) Districts shall designate areas for recreational use. Criteria for designation of areas of recreational use are:</p> <ol style="list-style-type: none"> <li>1) the area receives significant use by persons engaging in recreational pursuits or is a major tourist destination; or</li> <li>2) the area has potential for high quality recreational use because of physical, biological, or cultural features.</li> </ol>	<p>(a) All of the alternatives recognize and propose to protect the preserve's potential for high quality recreational opportunities related to its physical, biological, and cultural features.</p>	Consistent

ACMP Section	Policy	Evaluation of Preferred and Other Alternatives	Consistency Determination
	(b) District and state agencies shall give high priority to maintaining and, where appropriate, increasing public access to coastal water.	(b) Public access to coastal water adjacent to the preserve is guaranteed wherever the adjoining lands are in public ownership. Access across federal lands for traditional activities is guaranteed by ANILCA. Recreational use of off-road vehicles would not be allowed under any of the alternatives.	Consistent
6 AAC 80.120 Subsistence	<p>(a) Districts and state agencies shall recognize and assure opportunities for subsistence usage of coastal areas and resources.</p> <p>(b) Districts shall identify areas in which subsistence is the dominant use of coastal resources.</p> <p>(c) Districts may, after consultation with appropriate state agencies, native corporations, and any other persons or groups, designate areas identified under (b) of this section as subsistence zones in which subsistence uses and activities have priority over all non-subsistence uses and activities.</p> <p>(d) Before a potentially conflicting use of activities may be authorized within areas designated under (c) of this section, a study of the possible adverse impacts of the proposed potentially conflicting use or activity upon subsistence usage must be conducted and appropriate safeguards to assure subsistence usage must be provided.</p> <p>(e) Districts sharing migratory fish and game resources must submit compatible plans for habitat management.</p>	<p>See appendix D of the <u>Draft General Management Plan</u> for the ANILCA, section 810, evaluation. The evaluation finds that none of the alternatives, including the proposed action, would result in a significant restriction of subsistence uses within the preserve.</p>	Consistent
60 AAC 80.130 Habitats	<p>(a) Habitats in the coastal area which are subject to the Alaska coastal management program include:</p> <ol style="list-style-type: none"> <li>1) offshore areas;</li> <li>2) estuaries;</li> <li>3) wetlands and tidelands;</li> <li>4) rocky islands and secliffs;</li> <li>5) barrier islands and lagoons;</li> <li>6) exposed high energy coasts;</li> <li>7) rivers, streams, and lakes; and</li> <li>8) important upland habitat.</li> </ol> <p>(b) The habitats contained in (a) of this section must be managed so as to maintain or enhance the biological, physical, and chemical characteristics of the habitat which contribute to its capacity to support living resources.</p>	All of the alternatives would help maintain the integrity and biological health of coastal habitats by promoting research and monitoring programs.	Consistent



<u>ACMP Section</u>	<u>Policy</u>	<u>Evaluation of Preferred and Other Alternatives</u>	<u>Consistency Determination</u>
6 AAC 80.140 Air, Land, and Water Quality	The statutes pertaining to and the regulations and procedures of the Alaska Department of Environmental Conservation with respect to the protection of air, land, and water quality are incorporated into the ACMP.	All requirements would be met under all of the alternatives. Development of any facilities would require compliance with applicable federal and state laws and regulations regarding air, land, and water quality. The only construction activities would be three public use cabins and a new cabin at Serpentine Hot Springs under alternative B.	Consistent
6 AAC 80.150 Historic, Prehistoric, and Archeological Resources	Districts and appropriate state agencies shall identify areas of the coast which are important to the study, understanding, or illustration of national, state, or local history or prehistory.	In all alternatives, the National Park Service would survey and evaluate archeological and historical sites within the preserve. Protection as mandated by applicable laws and regulations would be provided.	Consistent

## APPENDIX G: NPS PLANNING PROCESS

### ANILCA REQUIREMENTS

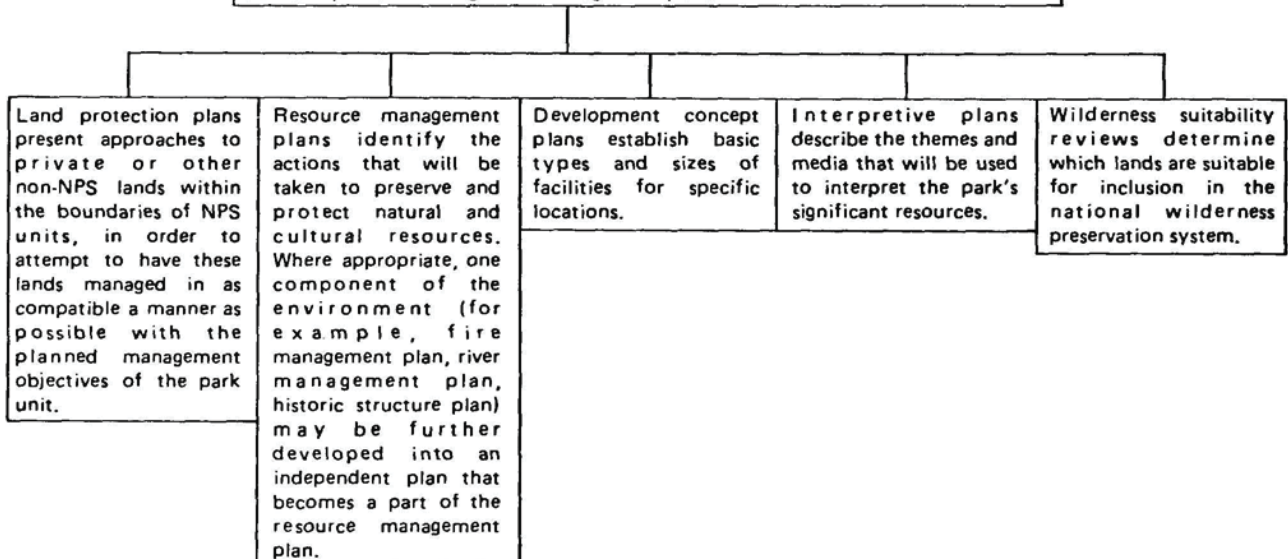
Section 1301 of the Alaska National Interest Lands Conservation Act (ANILCA: PL 96-487) requires the preparation of conservation and management plans for each unit of the national park system established or enlarged by ANILCA. These plans are to describe programs and methods for managing resources, proposed development for visitor services and facilities, proposed access and circulation routes and transportation facilities, programs and methods for protecting the culture of local residents, plans for acquiring land or modifying boundaries, methods for ensuring that uses of private lands are compatible with the purposes of the unit, and opportunities for mutually beneficial cooperation with other regional landowners.



### NPS PLANNING DOCUMENTS

The National Park Service planning process for each park (preserve, monument, or other unit of the system) involves a number of stages, progressing from the formulation of broad objectives, through decisions about what general management direction should be followed to achieve the objectives, to formulation of detailed actions for implementing specific components of the general management plan.

The general management plan addresses topics of resource management, visitor use, park operations, and development in general terms. The goal of this plan is to establish a consensus among the National Park Service and interested agencies, groups, and individuals about the types and levels of visitor use, development, and resource protection that will occur. These decisions are based on the purpose of the park, its significant values, the activities occurring there now, and the resolution of any major issues surrounding possible land use conflicts within and adjacent to the park. The following kinds of detailed action plans are prepared concurrently with or after completion of the general management plan.

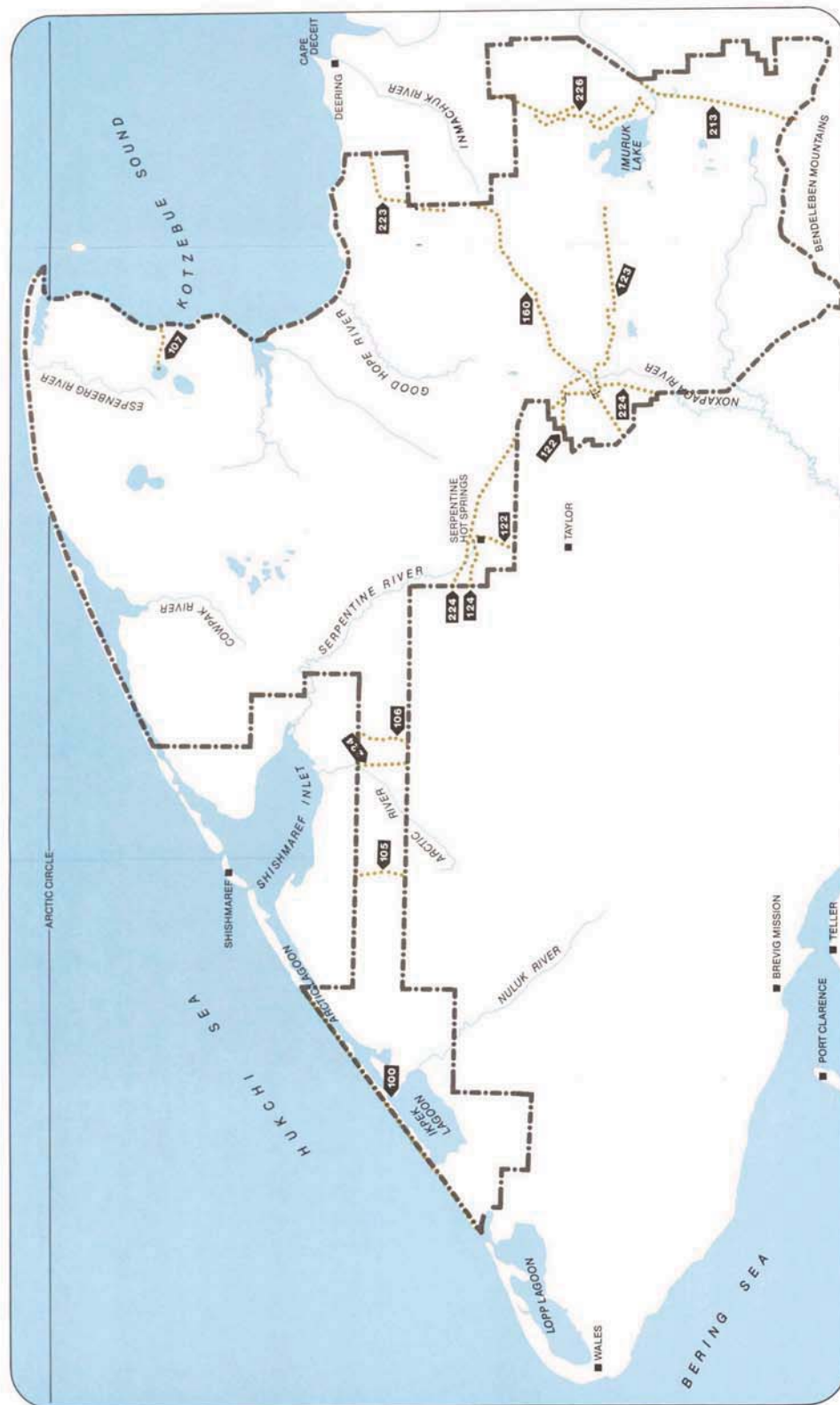


- Depending largely on the complexity of individual planning efforts, action plans may or may not be prepared simultaneously with the general management plan. If they are prepared after the general plan, the NPS public involvement and cooperative planning efforts are continued until all of the implementation plans are completed.



APPENDIX H:  
POSSIBLE RS 2477 RIGHTS-OF-WAY

THIS MAP DOES NOT ESTABLISH THE VARIETY OF THESE POTENTIAL RIGHTS-OF-WAY AND DOES NOT PROVIDE THE PUBLIC THE RIGHT TO TRAVEL OVER THEM. THIS MAP HAS BEEN PROVIDED BY THE STATE TO ILLUSTRATE RIGHTS-OF-WAY THAT THE STATE HAS IDENTIFIED AND CONTENDS MAY BE VALID UNDER RS 2437. THE USE OF OFF-ROAD VEHICLES IN LOCATIONS OTHER THAN ESTABLISHED ROADS OR DESIGNATED ROUTES IN UNITS OF THE NATIONAL SYSTEM IS PROHIBITED BY RS 1164 AND 1189B AND 3613.11(g). IDENTIFICATION OF POSSIBLE RIGHTS-OF-WAY DOES NOT CONSTITUTE THE DESIGNATION OF ROUTES FOR OFF-ROAD VEHICLE USE.



POSSIBLE R.S. 2477  
RIGHTS-OF-WAY  
**BERING LAND  
BRIDGE**  
National Preserve

**PRESERVE BOUNDARY**

POSSIBLE R.S. 2477 TRAIL

105 B.S. 2477 TRAIL NO.

This number corresponds to the Alaska Existing Trails System. Source: State of Alaska Department of Transportation/Public Utilities. Submitted April 1974.

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## APPENDIX I: DEFINITION OF TRADITIONAL

In applying the provisions of ANILCA as related to "means of surface transportation traditionally employed" (sec. 811) and "the use of snowmachines . . . , motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities" (sec. 1110), the National Park Service has relied on the following definitions of "tradition(al)" from Webster's Third New International Dictionary of the English Language (unabridged), 1976:

2. The process of handing down information, opinions, beliefs, and customs by word of mouth or by example: transmission of knowledge and institution through successive generations without written instruction . . .

3. An inherited or established way of thinking, feeling, or doing; a cultural feature (as an attitude, belief, custom, institution) preserved or evolved from the past; usage or custom rooted in the past (as of a family or nation): as a (1): a doctrine or practice or a body of doctrine and practice preserved by oral transmission (2): a belief or practice of the totality of beliefs and practices not derived directly from the Bible . . .

5.a: Cultural continuity embodied in a massive complex of evolving social attitudes, beliefs, conventions, and institutions rooted in the experience of the past and exerting an orienting and normative influence on the present b: the residual elements of past artistic styles or periods . . .

The National Park Service recognizes that it would be valuable to pursue, with those affected, the refinement of this definition in the context of the legislative history. In the interim the National Park Service will continue to use this definition in applying the above-referenced provisions of ANILCA. To qualify under ANILCA, a "traditional means" or "traditional activity" has to have been an established cultural pattern, per these definitions, prior to 1978 when the unit was established.



## APPENDIX J: WILDERNESS MANAGEMENT

Should the secretary of the interior and the president recommend and should the Congress designate lands within the preserve for inclusion in the national wilderness preservation system, this section on wilderness management will apply.

The Wilderness Act states that wilderness areas "shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness." Wilderness is then defined (in part) as "an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitations, which is protected and managed so as to preserve its natural conditions."

ANILCA made certain exceptions to the Wilderness Act that apply only to the management of wilderness areas in Alaska. These are summarized below:

Section 1110(a) provides that the secretary will permit in conservation system units, which by definition in section 102(4) includes units of the national wilderness preservation system:

the use of snowmachines (during periods of adequate snow cover), motorboats, airplanes and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, . . . and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area.

The National Park Service has incorporated this provision into 36 CFR 13, which covers the administration of national park system units in Alaska.

The continued use of airplanes in designated wilderness is allowed under the above cited sections of ANILCA and the Code of Federal Regulations. Helicopter landings are prohibited except in compliance with a permit issued by the superintendent.

Motorboats may also be used on bodies of water within wilderness. Snowmachine access occurs throughout the preserve and will continue to be allowed in designated wilderness under the above-cited sections of ANILCA and the Code of Federal Regulations. No other forms of motorized access are permitted except as provided by ANILCA, sections, 811, 1110, and 1111.

The Wilderness Act, section 4(c), states that subject to existing private rights there shall be

no commercial enterprise and no permanent road within any wilderness area . . . and except as necessary to meet minimum requirements for the administration of the area for purposes of this Act (including measures required in emergencies involving health and safety of persons within the area), there shall be no temporary road . . . and no structure or installation within the area.

Section 1303(a)(3) of ANILCA, however, authorizes the use and occupancy of existing cabins or other structures in national park system units under a permit system. Cabins and other structures not under a permit system may be used for official government business, for emergencies involving health and safety, and for general public use. Also under section 1303(a)(4), the secretary may permit the construction and maintenance of cabins or other structures if it is determined that the use is necessary for reasonable subsistence use. Section 1315 of ANILCA contains more specific language about existing cabins:

Previously existing public use cabins within wilderness . . . may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

Section 1315 also allows the construction of new cabins and shelters if necessary for the protection of public health and safety. Appropriate congressional committees must be notified of the intention to remove existing public use cabins or shelters or to construct new ones in wilderness.

Section 1310 provides, subject to reasonable regulation, for access to and the operation, maintenance, and establishment of air and water navigation aids, communications sites and related facilities, and facilities for weather, climate, and fisheries research and monitoring in wilderness areas.

Section 1316 provides that the secretary will permit, subject to reasonable regulation, temporary shelters and facilities on lands open to the taking of fish and wildlife (i.e., national preserves). However, such use may be denied if the secretary determines, subject to adequate notice, that such facilities constitute a significant expansion of existing facilities or are detrimental to unit purposes, including wilderness character, and thereupon deny such use. (A finding of significant expansion is contained in this general management plan; see section on temporary facilities.)

The decision-making process established in title XI of ANILCA for the siting of transportation and utility systems applies to designated wilderness in Alaska.



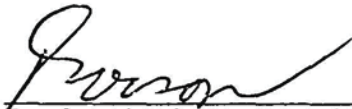
## APPENDIX K: FINDING OF NO SIGNIFICANT IMPACT

The National Park Service is proposing to implement the final general management plan and land protection plan for Bering Land Bridge National Preserve. The general management plan is intended to guide the management of the preserve for 10 years and addresses all the major topics of management, including resources management, general public use, subsistence, access and development. The land protection plan is reviewed, and revised as necessary, every two years, and it presents proposals for the nonfederal land within and near the preserve.

A Draft General Management Plan / Environmental Assessment, Land Protection Plan, Wilderness Suitability Review was distributed to the public in spring of 1985, and comments were accepted until the end of August. A subsequent revised draft was distributed for a 60-day public comment period in December of 1985.

The environmental assessment analyzed the impacts of three alternative management strategies for the preserve, including the impacts on wildlife, vegetation, cultural resources, NPS operations, and the local economy. It was determined that the proposal will cause no adverse impacts on the public health, public safety, or rare or endangered species. No highly uncertain or controversial impacts, or significant cumulative effects, were identified. Any negative environmental effects will be minor and/or temporary. The proposal will result in positive effects on natural and cultural resources within the preserve as a result of natural resource research and monitoring, and through cultural resource identification and protection. A complete evaluation of impacts resulting from the proposal and alternatives can be found in the draft plan and environmental assessment.

Based on the environmental analysis and public and agency comment on the proposed plans, I have determined that the proposed federal action will not significantly affect the quality of the human environment, and therefore an environmental impact statement will not be prepared.



Regional Director, Alaska Region

11/20/86  
Date

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## PLANNING TEAM

Vaughn Baker, Outdoor Recreation Planner  
Alaska Regional Office

Lawrence Beal, Team Captain, Outdoor Recreation Planner  
Alaska Regional Office

Joaqlin Estus, Cultural Resource Specialist  
Alaska Regional Office

Alan Robinson, Natural Resource Specialist  
Denver Service Center

Larry Rose, Superintendent  
Bering Land Bridge National Preserve

Ken Schoenberg, Cultural Resource Specialist  
Alaska Regional Office

Suzanne Stutzman, Landscape Architect  
Alaska Regional Office

## Other Participants

Chuck Gilbert, Outdoor Recreation Planner  
Alaska Regional Office

Jack Mosby, Outdoor Recreation Planner  
Alaska Regional Office

Sanford P. Rabinowitch, Outdoor Recreation Planner  
Alaska Regional Office

Richard Stenmark, Acting Associate Regional Director for Operations  
Alaska Regional Office

Lou Waller, Subsistence Specialist  
Alaska Regional Office