

Denali National Park and Preserve Subsistence Management Plan



August 2004

INTRODUCTION

The National Park Service (NPS) has been involved in subsistence management in Alaska since establishment of the Alaska National Monuments in 1978. Congress recognized the uniqueness and importance of a subsistence way of life to rural residents by identifying it as one of the purposes of the Alaska National Interest Lands Conservation Act (ANILCA) in 1980. Through Title VIII of ANILCA, Congress established a policy 1) that rural residents engaged in a subsistence way of life be provided the opportunity to do so, consistent with sound management principles and the conservation of healthy fish and wildlife populations; 2) that the utilization of public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence resources; 3) the non-wasteful subsistence uses of fish and wildlife be the priority consumptive use should it become necessary to restrict the taking; and 4) that in managing subsistence activities the federal land managing agencies shall cooperate with adjacent landowners and land managers, including Native corporations, state and federal agencies.

To achieve this complex synthesis of protection and use, Congress felt it was important to include input from those who have a personal knowledge of traditional subsistence activities and resources on federal lands. Local advisory committees and regional advisory councils were established within the state, and specifically for national parks and monuments, subsistence resource commissions were established to advise the Park Superintendent, Secretary of the Interior and Governor of Alaska on a hunting program for the park areas.

Since the mid 1980's, the Denali Subsistence Resource Commission (SRC) and Denali park staff have been discussing and developing a subsistence management program specific to Denali National Park and Preserve. With the assumption of Federal subsistence management on Federal Public lands in 1990, park staff and the Denali SRC have also been actively involved in many subsistence issues with the Southcentral, Eastern and Western Interior Regional Advisory Councils and the Federal Subsistence Board (FSB).

Several years ago, the NPS initiated a review of subsistence law and regulations. The intent of this exercise was to initiate a continuing dialog with all affected individuals and organizations through a review of the law, regulations and legislative history, and to identify and establish actions necessary to resolve subsistence management issues. During this review the NPS adopted the following mission statement for subsistence to help guide and ensure the continued opportunity for local rural residents to engage in subsistence use of resources on National Park Service lands in Alaska.

National Park Service Subsistence Mission Statement

The National Park Service will manage subsistence as a legislated use consistent with provisions of the Alaska National Interest Lands Conservation Act, the Organic Act of 1916, and each park's enabling legislation to:

- protect the opportunity for qualified local rural residents to continue traditional subsistence activities. These subsistence uses shall have priority over competing consumptive uses;*
- recognize that the subsistence ways of life may differ from region to region, and are continuing to evolve, and where appropriate, park management practices may reflect regional diversity;*
- promote local involvement and participation in processes associated with subsistence management;*
- ensure that management practices involving the utilization of public lands adequately consider the potential for restriction of subsistence uses and impacts upon subsistence resources;*
- ensure that management of park resources is consistent with the conservation of unimpaired ecosystems and natural and healthy populations of fish and wildlife, incorporating scientific data and principles with traditional knowledge and cultural values;*
- promote effective communication and mutual understanding of subsistence uses and related cultural and social values, and park purposes and protection, between the NPS, subsistence users, the State of Alaska and the public.*

One of the recommendations produced by the review of subsistence laws and regulations was that the SRC's and NPS should work together to expand and develop the topics and elements addressed within the subsistence hunting program recommendations, and to further develop comprehensive Subsistence Management Plans for their respective areas.

PARK MANAGEMENT PLANS

Relationship of Various Park Plans

Several of Denali's planning documents discuss subsistence use and management at various levels of detail and are reviewed and updated for different periods of time. For example, the General Management Plan (GMP) which provides overall guidance to park management for preservation and use of park resources has a planning period usually between ten to fifteen years. Stepped down from the GMP is the Resource Management Plan (RMP) which provides detailed descriptions of resource management programs, activities and proposed future actions for a period of approximately five years. Stepped down from the RMP is the Subsistence Management Plan (SMP) which is intended to provide the most detailed clarification of the management of subsistence uses and practices by addressing major topics specifically related to subsistence with reviews and updates as necessary and a planning time frame of one to five years.

General Management Plan (1986)

The general management plan (GMP) is typically a longer range planning document and is one of several plans used to guide park staff in decision making and problem solving. The purpose of the general management plan is to provide guidance for the protection of Denali's ecosystems while accommodating recreation, subsistence, and other valid uses. Denali's GMP is a combined document consisting of the general management plan, the land protection plan, and the wilderness suitability review for Denali.

When Congress expanded Denali National Park and Preserve, it recognized that subsistence uses were appropriate activities that should be allowed to continue in the new park and preserve additions. The subsistence section of the GMP includes a general discussion of Title VIII of ANILCA, a commitment to prepare a subsistence management plan for the park, what the general goals of the subsistence management plan should be, and a discussion of subsistence access.

Resource Management Plan (1998)

Denali's resource management plan (RMP) is both a short and long-range planning document which describes the resource management aims and objectives and the action necessary to achieve them. The RMP documents knowledge of and status of the park and preserve's natural, cultural, and subsistence resources; describes and evaluates current resource management activities; prescribes an action program; and identifies funding and personnel needs. In addition, the RMP strives to address the number, type and source of internal and external threats to the resources and users of Denali National Park and Preserve; to develop project statements to address these issues and concerns; and to describe what mitigation actions can be taken to reduce or limit the impacts to resources or users. The resource management plan is stepped down from the GMP and outlines park management programs and activities for roughly five years.

Subsistence resources and uses are addressed in the “Introduction”, “Present Resource Status”, “Management Objectives”, and “Park Resource Program” sections of the RMP. Subsistence related project statements have been written for subsistence fishing, hunting management, trapline management, timber and cabin log management, customary and traditional use patterns, traditional access, subsistence program management, ethnographic resources, and numerous wildlife species.

Subsistence Management Plan (2000)

The subsistence management plan (SMP) is intended to provide clarification in the management of subsistence uses by addressing major topics related to subsistence such as: timber cutting and use, shelters and cabins, trapping and trapline management, eligibility and resident zones, access, acquisition of resource data, and resolution of user conflicts and possible closures. The approved subsistence hunting program of the Denali Subsistence Resource Commission is an important component of the subsistence management plan. As the SRC makes changes to the subsistence hunting program for the park, those changes will be incorporated into the plan.

The SMP is a dynamic document that is intended to be responsive to new information. Modifications to the SMP will be made at least once every year depending on the level of activity of the Subsistence Resource Commission and the NPS in advancing new issues and recommendations. Significant revisions to the plan will be made available for a minimum 60 days public review and comment period.

Consultation

ANILCA section 808 directed the National Park Service to work with the Subsistence Resource Commissions in developing a comprehensive Subsistence Hunting Program for the park. The General Management Plan for Denali further committed the NPS to prepare a subsistence management plan for the park, a component of which would be the Subsistence Resource Commission’s hunting program.

The Subsistence Management Plan was developed in cooperation with all affected parties; including the Denali Subsistence Resource Commission, the State of Alaska, the Southcentral Regional Advisory Council, and the Eastern and Western Interior Regional Advisory Councils, Local Advisory Committees, and knowledgeable individuals. Comments from other Federal agencies and Native groups with park related resource management concerns were also solicited.

The final draft plan was available for public review and comment for a period of about 100 days prior to its approval (September 1-December 10, 1999). After completion of public and agency reviews, this final Subsistence Management Plan was approved by the park Superintendent and the Subsistence Resource Commission.

Compliance

The Subsistence Management Plan is not a decision making document. Therefore National Environmental Protection Act (NEPA) requirements have not been met. As aspects of this plan reach a stage where a decision is to be made the appropriate level of NEPA compliance will be completed when and where required.

Environmental assessments will be prepared when necessary in accordance with NEPA and categorical exclusions will be on file for each applicable project proposal before implementation. If a proposed action may affect an endangered species or their habitat, consultation will be made with the Fish and Wildlife Service as required by section 7 of the Endangered Species Act. Various other legal and regulatory requirements such as wetland and floodplain findings and Corps of Engineers permits will be obtained as appropriate.

Finally, Section 810 of ANILCA requires an evaluation of potential impacts of proposed actions on subsistence uses and needs. These evaluations will be completed as required. Appendix H contains a listing of environmental compliance documents relating to subsistence issues as well as ANILCA Section 810 subsistence analyses.

SUBSISTENCE RESOURCE CONDITIONS & TRENDS

One of the purposes of ANILCA is to provide the opportunity for local, rural residents engaged in a subsistence way of life to continue to do so. Accordingly, Congress provided for traditional subsistence uses by qualified local rural residents within the ANILCA additions to Denali National Park and Preserve. Many native and non-native local rural residents engage in, and depend upon, resources from the park and preserve for personal consumption, cultural identity, and to maintain a subsistence way of life.

In authorizing subsistence uses within Denali National Park and Preserve additions, Congress intended that traditional National Park Service management policies be maintained which strive to maintain the natural abundance, behavior, diversity, and ecological integrity of native animals as part of their ecosystem, while recognizing that subsistence use by local rural residents have been, and are now, a natural part of the ecosystem serving as a primary consumer in the food chain. In addition to providing for traditional subsistence opportunities, Congress directed the NPS to take appropriate steps when necessary to insure that consumptive uses of resources within the park and preserve not be allowed to adversely disrupt the natural balance which has been maintained for thousands of years.

Subsistence activities are dynamic and diverse with hunting usually occurring in the fall and winter months, fishing concentrated during the summer and fall, and trapping efforts occurring in mid to late winter months when snow cover is adequate for travel and fur is prime. For obvious reasons, berry picking and use of plant greens occur in the summer and fall months. Timber harvest typically occurs in the winter when frozen rivers, lakes and snow cover make access and transportation more efficient.

Subsistence harvests may vary considerably from previous years because of such factors as weather, migration patterns, natural cyclic population fluctuations, or from political and regulatory factors. Although the magnitude of subsistence use was probably much greater historically than it is now in Denali, the seasonal rounds, use patterns, and relative importance of certain species are similar today. Changing environmental and political conditions and the seasonal availability of many resources make flexibility and adaptability, as key components of a successful subsistence life style, just as important today as they have been in the past.

Community profile studies had been conducted for most of Denali's subsistence communities in the early to mid 1980's. Studies indicate a dependence primarily upon moose, caribou, rock and willow

ptarmigan, spruce grouse, hare, ducks and geese, salmon and a few species of freshwater fish. Less frequently used large mammals include black bear, brown bear and Dall sheep. Large mammals account for 70% of the resources used, and fish account for 21 %. Fresh water fish include burbot, dolly varden, grayling, lake trout, northern pike, rainbow trout and whitefish. Important fur animals include marten, mink, red fox, wolf, lynx, weasel, wolverine, land otter, beaver, and muskrat.

Reported harvest information for large animals, furbearers, waterfowl and fish can be found through the Alaska Department of Fish and Game harvest records, sealing documents, and registration permits. Most of this harvest information is lumped together for the entire Game Management Unit or subunits irrespective of park or preserve boundaries, making review or use of the data very difficult. Harvest information is reported on a voluntary basis resulting in highly variable reliability of data. Much of the older harvest data has not been digitized or entered into computer databases. With such a range and variety of subsistence resource information, which is often gathered in the short term and not related to other works, it makes it difficult to formulate the information into a long term consistent database for subsistence management. Particularly noticeable, is a lack of information regarding subsistence use for the southern additions to Denali National Park and Preserve.

Subsistence uses of plant materials include spruce and birch trees for cabins, shelters, structures, and firewood. Diamond willow, spruce burls, birch, cottonwood and birch bark are used for making furniture, and other hand crafted items such as dog sleds, snowshoes and bark baskets. Abundant and commonly used berries include blueberry, lingon berry, high- and low-bush cranberry and raspberry. Wild greens include: fireweed, lambsquarter, and ferns.

Local Rural Subsistence Users

The NPS determines eligible local rural subsistence users through the use of resident zone communities and issuance of subsistence use permits. The communities of Cantwell, Lake Minchumina, Nikolai and Telida are identified as subsistence resident zones communities containing a significant concentration of residents who have customarily and traditionally used Denali National Park lands for subsistence purposes. In addition, there are sixteen other local rural families with subsistence use permits who do not live within one of these designated resident zone communities but have traditionally engaged in subsistence activities within the park.

Based upon 1990 U.S. Census Bureau data for the above subsistence use communities there are approximately 320 local rural residents eligible to engage in subsistence use activities within Denali National Park. A comparative review of 1980 and 1990 census data indicates that three of Denali's resident zone communities experienced a population growth and one showed a decrease. Any residents permanently residing within one of these resident zones is an eligible subsistence user of park resources. Individuals moving to and permanently residing in a resident zone assume the communities' eligibility even if they have no past personal or family history of using park resources. The number of potential subsistence users continues to grow along with these communities population.

For social, political, economic, or regulatory reasons, not all members of these communities are active subsistence users. Since 1980 the overall populations for most communities surrounding Denali has increased, but the relative number of subsistence users actively involved in subsistence use at Denali is decreasing. Effort and harvest levels for most subsistence species have remained about the same as in the past or have decreased slightly. Overall the subsistence trapping effort, which is a significant component of subsistence for the northern regions, has declined along with the decreasing price received for furs.

Cash wages and subsistence activities form a mixed economy in the subsistence communities that surround the park and preserve. Many Native and non-native rural residents engage in, and depend on, subsistence activities for both personal consumption and cultural identity. Barter and customary trade are also recognized as an important part of the subsistence lifeway and economy, especially for the more remote communities in the northern and western region of the park and preserve.

Subsistence activities are dynamic, varying in intensity and scope depending on the seasonal availability of wildlife, fish, plants and the availability of wage earning work. Changes in socio-economic conditions, such as fur prices and availability of seasonal jobs, greatly influence the reliance on, and ability to engage in traditional hunting, gathering, fishing, and trapping activities.

There are many potential threats to the continuation of a customary and traditional subsistence way of life. Any activity that impairs the overall health of an ecosystem, natural processes or resource availability has the potential to adversely impact subsistence uses for both the short and long term. Any actions by management or regulatory authorities that restrict customary and traditional uses of resources or means of access can also unavoidably alter subsistence patterns of use and use areas. Internal and external threats from access, industrialization, plant and wildlife harvests, settlements and population increases all have the potential to contribute to impacts.

Increasing numbers of recreational users in the developed areas of the park and particularly in the remote backcountry areas have increased the potential for conflicts between consumptive and non-consumptive users. Increasingly, special interest groups and organization are exerting political and public pressure to limit, close or restrict subsistence use areas or activities. International fur markets and trapping policies can significantly affect trapping effort and harvest. A significant potential exists in Denali's preserve areas for increased competition for resources and use areas by sport hunters, trappers and fishermen. Both private and governmental facility development further increases visitor use, community growth, and alteration of habitat which may adversely impact subsistence resources or subsistence activities.

The Federal Subsistence Board makes customary and traditional use determinations for use of fish and wildlife species on a community or area basis. For the most part, these community and area C&T determinations are adequate to meet local rural users needs, but occasionally they exclude individuals who have traditionally utilized park resources but do not live in the community or area with a positive use determination. The FSB recently established a process for making individual customary and traditional use determinations for subsistence users eligible to utilize National Park and Monument lands. This process has resolved several long-standing issues at Denali National Park and Preserve.

Natural Resource Conditions

The NPS is charged with conserving natural and healthy populations of fish and wildlife on parklands and healthy populations in the preserves. To that end, the NPS is developing guidelines to help evaluate and protect natural and healthy populations. As with all other issues, involvement from subsistence users, advisory groups and others will be sought. Currently, the only wildlife population considered to be seriously stressed is the Denali Caribou Herd, which has been closed to both federal subsistence and state hunting since 1977. Overall, wildlife populations are still regulated by nature within the park and preserve and subsistence harvest within the new additions is considered to be of minimal influence at this time.

It is recognized that certain basic inventories and ongoing condition assessments are lacking at Denali, so detailed resource trend analyses for all species, use areas, or systems are premature. Existing information does allow some intuitive conclusions about the condition of park resources. In general, the natural resources of Denali National Park and Preserve are still in excellent condition. The habitat within and surrounding the park and preserve is still basically intact, the structure and composition of the ecosystem is still unaltered, and ecosystem processes are still functioning naturally.

The continuation of traditional subsistence activities depends directly on the availability of healthy and diverse wildlife, plant and fish populations. The natural diversity and abundance of resources important to subsistence activities is, in turn, directly dependent upon intact and healthy ecosystems. These systems and the subtle interplay of natural processes, including subsistence use, must be carefully protected. In order to protect these resources and social values, the traditional ecological knowledge of Native people and other long-term residents must be integrated with the technical scientific approach to park management.

Traditional Trapping

Subsistence trapping and bartering of fur animals has long been a customary and traditional activity for the Denali area. Trapping continues to be one of the predominant subsistence activities occurring on park and preserve lands. Winter travel in pursuit of furbearers can be extensive and in the northern and western regions is supported by a network of winter trails, shelters and cabins which are accessed by the use of dog teams or snowmachines.

Local social norms and traditions of trapping differ greatly from culture to culture and from region to region within Denali. Particularly evident in the north and western regions of Denali, local residents have evolved and continue to maintain strong informal norms associated with the use of trapping areas and "ownership" of cabins on public lands. In some communities, families or individuals are known to utilize large trapping areas, with support trails and cabins, for decades. These social norms and traditions, which serve to allocate use territories, are integral in the conservation of fur animals and to manage social conflict. In the eastern and southern regions of the park and preserve these social norms and traditions are not as evident and in some cases no longer exist.

Trapping in Denali's northern region operates on the basis of formal and informal agreements between individuals since there is no recognized legal guarantee that extends ownership or property rights to a trapline or the public lands where the trapping occurs. In recent years, this system of social norms and peer pressure has been threatened by increasing numbers of users. Strict agency regulations regarding the construction of new cabins, the reconstruction of collapsed cabins, and the use of existing subsistence use cabins has impacted traditional trapping practices which has reduced the number of trappers, spacing and use of cabins, and the distance and length of traplines. Park policies regarding maintenance and brushing of old winter trapline trails, and brushing of new winter trails may have further affected trapping traditions. Different trapping management practices and harvest strategies by local subsistence users may also influence local furbearer populations and distributions.

Access

The different means and methods of subsistence access and the seasonal timing of use are critical for acquiring resources and are as diverse as the resources being sought. Common methods of traditional access include hiking, skiing, snowshoeing, dog sled teams, horses, snowmachines, motor boats,

canoes, motor vehicles, and off road vehicles under certain conditions. Subsistence users from McKinley Village, and more recently individuals from Cantwell, use motor vehicles for driving the Park Road to access the Kantishna Hills. Currently, there is no known use of aircraft by local rural subsistence users to access preserve lands for the taking of subsistence fish or wildlife.

There have been repeated efforts over the history of the park to establish an additional public access road along the Stampede Trail to the Kantishna area. In recent years, substantial pressure has been exerted by political and private interests for establishing a northern road or railroad access to Kantishna resulting in several feasibility studies and proposals.

The Alaska Department of Transportation has considered routes for a new road to interior Alaska along the northern region of the park and preserve connecting Lake Minchumina, Telida, Nikolai and McGrath. A spur road into the Kantishna area was included in this study. In the eastern region of the park there is an easement extending into the Dunkle Hills from the railroad near Colorado. Proposals for the Southside Development Concept Plan for Denali call for improved bridge access and parking areas along the Dunkle Hills road as well as improvements to the existing Petersville Road in the Tokositna area.

In 1986, the Denali Subsistence Resource Commission submitted to the Secretary of the Interior a formal hunting program recommendation and subsequently reiterated their position with letters in 1993 and 1994 stating that the Commission strongly opposes any construction of new roads or railroads in Denali National Park and Preserve. The Commission is concerned that routes being considered will have adverse impacts on the livelihood and social lifestyles of subsistence users. Suggested routes through the park and preserve will traverse lands that have been proposed for wilderness designation and would open areas to increased accessibility which could have severe impacts on vegetation, wildlife and fish resources or their habitats. This in turn could significantly affect the livelihood of local subsistence users. Additionally, new roads or railroads would open areas presently used by subsistence users, exposing subsistence traplines, cabins, caches and structures to vandalism. The Commission is concerned that this could result in theft or damage to cabins, supplies and equipment and would result in hardship to someone dependent on these resources.

The use of motorized ATV's, snowmachines and road-based vehicles has increased dramatically in recent years. Greatly improved technology and capabilities of these machines have allowed access and use to spread over much larger areas of the park and preserve. Some regions of the park are used intensively during certain periods of the year increasing stress on natural resources as well as creating potential conflicts between user groups. Some forms of mechanized access such as ATV's have a very high potential to physically damage vegetation and soil resources even with limited use.

Use of aircraft for subsistence taking of fish and wildlife from parklands is restricted by NPS regulations with few exceptions. The ANILCA legislative record is clear that Congress intended that only in rare cases, under extraordinary situations, should aircraft be used for subsistence hunting, trapping or fishing in parks or monuments. NPS regulations do not restrict the use of aircraft for access to take fish or wildlife in the preserves for either sport or subsistence users. For economic, social or regulatory reasons, local rural subsistence users have not historically and do not currently utilize aircraft for taking fish or wildlife in Denali National Park and Preserve. People engaged in sport hunting, trapping and fishing, on the other hand, utilize aircraft as the primarily means of access to Denali's two preserve areas.

Currently, most sport hunting occurs in the Alaska Range, part of Denali's southern preserve, which is a remote and rugged area of the Alaska Range where trophy size animals are most likely to be found.

The primary means of access for sport hunters, trappers and fishermen to this preserve is by aircraft. Subsistence hunting, in contrast, is more opportunistic in nature and occurs mainly in areas more easily accessed by rivers and roads utilizing traditional ground access methods. Thus, to a large extent, the areas used for sport hunting and the areas used for subsistence hunting tend to be geographically distinct. Should this trend shift and sport hunters increase their use of the northern preserve, competition for wildlife with subsistence users could significantly increase.

National Preserves

There are two preserve areas within Denali National Park and Preserve. The northern preserve is located north of the Alaska Range on the western side of the park and the southern preserve is located on the south side of the Alaska Range on the western side of the park (see map of land status in Appendix E). The northern preserve is utilized extensively by the subsistence communities of Lake Minchumina and Telida, and historically by Nikolai. The southern preserve is remote and difficult to access which is a significant limiting factor for subsistence use. Very little subsistence use occurs on the southern preserve lands, with the nearest community being Skwentna on the Yentna River, approximately 50 miles down drainage from the preserve boundary. Access by riverboat is expensive, and difficult due to varying water levels and river conditions. Snow depths and overflow conditions make winter access difficult and dangerous.

For preserve lands, eligible local rural subsistence users are defined by the FSB's customary and traditional species use determinations. These determinations identify which communities and areas are eligible for subsistence use of a species on federal public lands. The FSB's customary and traditional determinations typically are more liberal than NPS eligibility for use of National Park lands, but occasionally may be more restrictive. The number of eligible subsistence users for the preserve can vary greatly depending upon which communities and areas are determined to have customarily and traditionally used a fish or wildlife population. In general, since the federal assumption of subsistence management, the length of subsistence hunting seasons and harvest limits have gradually increased where the wildlife populations could sustain it to more accurately reflect traditional subsistence practices and needs.

State sport and subsistence hunting and trapping of wildlife is allowed on preserve lands subject to State of Alaska hunting and trapping regulations, and NPS regulations. Both the north and south preserves are remote and have difficult ground access making use of aircraft for sport hunting and trapping the most reasonable and popular method of access. Currently most sport hunting efforts and harvests are focused primarily within the southern preserve and are considered to be minimal. Two sport hunting guides provide services in the southern preserve under a concessions permit issued by the NPS. Brown bear are the most sought after species for sport hunters, followed by moose and caribou, then sheep and black bear. ANILCA provides preferences for local rural subsistence users should a shortage of subsistence resources occur and allocation of harvest becomes necessary. Currently there are no wildlife species being allocated under this provision.

Kantishna Firearms Discharge Closure

Dramatic increases of recreational use and private facility development in the Kantishna area have occurred in the last decade. Due to concerns for public health and safety near the Kantishna visitor service and transportation facilities, a temporary closure to the discharge of firearms is established during the periods of high summer visitation on parklands within one mile on either side of the

Kantishna Road. This temporary closure may affect subsistence users by limiting an area of approximately 10 square miles to the discharge of a firearm during the first half of the moose season.

SUBSISTENCE PROGRAM ADMINISTRATION

Denali Subsistence Resource Commission

In 1984 the Denali Subsistence Resource Commission (SRC) was established for Denali National Park to advise and recommend to the Secretary of the Interior and the Governor of Alaska a program for subsistence hunting within the park. The SRC is comprised of nine members representing different geographical, cultural, and user groups for the Denali area. Three members are appointed by the Secretary of the Interior, three appointed by the Governor of Alaska, and three appointed by Federal Regional Advisory Councils. The Commission meets at least twice a year to review proposals and make recommendations which may address major topics such as eligibility, access, harvest monitoring, methods and means of taking, research needs, use of cabins and shelters, trapline management, and timber management.

The SRCs task is to recommend a program for subsistence hunting on parklands. Seven formal hunting program recommendations have been made by the Commission to the Secretary and the Governor regarding eligibility, access and hunting seasons. The SRC and park staff have prepared a Subsistence Management Plan for the park and preserve to provide additional clarification in the management of subsistence. The Subsistence Management Plan will incorporate the approved subsistence hunting program of the SRC and therefore will be revised as necessary to incorporate future SRC actions.

The SMP is a dynamic document that is intended to be responsive to new information. Modifications to the SMP will be made at least once every year depending on the level of activity of the Subsistence Resource Commission and the NPS in advancing new issues and recommendations. Significant revisions to the plan will be made available for a minimum 60 days public review and comment period.

Federal Subsistence Management Program

On July 1, 1990 the Federal Government assumed responsibility for the management of subsistence taking of fish and wildlife on Federal public lands in Alaska. The Federal Subsistence Board (FSB) was established to oversee the Federal Subsistence Program and is the decision making body that makes rural/non-rural determinations, customary and traditional use determinations which define what communities and areas have subsistence use of wildlife populations, which species and populations are subject to harvest, when seasons open and close, how many animals may be harvested, and the method and means by which an animal may be taken. The subsistence harvest of wildlife in Denali National Park and Preserve by NPS qualified subsistence users is subject to Federal subsistence management regulations as well as specific NPS regulations.

The FSB relies heavily upon the review and recommendations from nine Federal Regional Advisory Councils, which were established to represent the different regions of the state. Denali National Park and Preserve lands are included within portions of the Southcentral, Eastern Interior and Western Interior Regional Advisory Councils (see Regional Advisory Council's maps in Appendix E). Subsistence users, advisory groups, state agencies, and the public participate in the development and review of federal regulations by submitting proposals to make changes, commenting on proposals, and testifying at public meetings. Although ANILCA Section 808 provides a linkage between the SRC and the Secretary of the Interior regarding hunting programs on park lands, the SRC also utilizes the FSB's annual regulatory cycle for changes to harvest regulations since that process provides a more expedient way to make needed changes. The Denali SRC schedules its meetings to provide timely input on proposals and programs to the Regional Advisory Councils and the Federal Subsistence Board. The Federal Regional Advisory Councils rely heavily upon Denali's SRC, agency staff, and local advisory groups to provide input on regulatory changes which may affect the park and preserve areas.

In March of 1995, the Ninth Circuit Court of Appeals found, in a case dealing with subsistence fisheries, that the United States has jurisdiction on navigable waters for which the U.S. has reserved waters for the purposes of implementing Title VIII of ANILCA. The U.S. Supreme Court's refusal to hear the State's appeal significantly expands Federal subsistence management of fisheries beyond the boundaries of Federal conservation units in Alaska. On October 1, 1999, in compliance with an order from the 9th Circuit Court of Appeals, the Federal Subsistence Board assumed management of subsistence fisheries on waters in and adjacent to conservation units in Alaska. The Governor, the Alaska Congressional Delegation, and the Alaska Legislature are currently working to resolve the subsistence issue.

State Fish and Game Management

Both federal subsistence and State of Alaska hunting, trapping and fishing activities are permitted in Denali's two preserves. The Alaska Board of Game regulates state harvests while the Federal Subsistence Board regulates federal subsistence harvests.

Rarely are fish or wildlife populations confined to the boundaries of a federal conservation unit. More frequently, fish and wildlife populations utilize lands in the Park and Preserve as well as lands adjacent to Denali under State management. Close coordination between State and Federal managers is imperative in such situations. Managers must collaborate on research and monitoring of these populations as well as on allocation of the resource to ensure the health of the population now and into the future.

Regardless of the management jurisdictions, fish and wildlife populations within the park must remain "natural and healthy" and those within the preserve units "healthy" in order to allow for consumptive uses.

SUBSISTENCE PLAN ORGANIZATION AND LAYOUT

This plan is constructed in such a way that it can easily be modified. Each page is numbered and has a revision date in the lower right corner. These numbers will change as the plan is modified. The table of contents will indicate the most recent revision dates for each chapter. Vertical black bars in the left and right hand margins indicate where changes have been made since the previous version of the document was distributed. In subsequent releases of those pages, the "old" bars will be removed and new bars will appear. This method of identifying changes is intended to easily bring the SRC members' attention to new information in the document.

The plan is broken down into four parts and color coded according to the following scheme:

YELLOW PAGES. The first page or two of each section are yellow. These pages contain a description of the issue that is being addressed, what the NPS policy is on this issue, and under what authority.

SALMON PAGES. Following the yellow pages there are generally one to several salmon color pages. These pages describe SRC proposed actions. Proposed actions are those actions the SRC has prepared "formal" hunting plan recommendations for or actions the SRC has passed a motion on during one its meetings. The first hunting plan recommendation submitted by the Denali SRC was in 1986.

A "formal" hunting plan recommendation has gone through the prescribed consultation process (for a description of the process refer to chapter 1) and been transmitted to the Secretary of Interior and Governor of the State of Alaska. Each salmon page contains a brief summary of the action, the Department of Interior, State of Alaska and public response to the SRCs recommendation, and the current status of the issue.

GREEN PAGES. The third section in each chapter is NPS proposed actions, which appear on green colored paper. The document, "NPS Subsistence Management Program", dated August 1997 (Appendix B) is the basis for the majority of the "NPS proposed actions". This document was widely circulated for review and comment in 1996 and 1997.

LAVENDER PAGES. The last section of each chapter are lavender pages containing a history of actions recommended by the SRC or NPS that have been completed. Each lavender page contains a description of the action recommended, who recommended the action, a chronology of correspondence and actions taken relating to the issue, and a description of the final resolution.

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◆ Amend the charter to allow the SRC to report to the Federal Subsistence Board	8/23/02
◆ Amend the charter to allow the Western Interior Regional Advisory Council to appoint one member to the Commission	8/23/02
◆ Support limited expansion of Title VIII subsistence to selected lands in Denali National Park and Preserve	8/23/02
◆ Request members attendance at meetings or a resignation	8/23/02
 Chapter 2: Resident Zone Eligibility	 8/18/00
<i>SRC Proposed Actions -</i>	
◆ Recommendations on determining eligibility of resident zone communities.	8/20/04
◆ Investigate the possibility of including Tanana to the resident zone and/or issue subsistence use permits (13.44) to eligible residents	8/18/00
◆ Establish an alternative system of eligibility (roster)	8/18/00
 <i>NPS Proposed Actions -</i>	
◆ Conduct a comprehensive review of eligibility requirements	8/18/00
 <i>SRC Completed Actions -</i>	
◆ Define the boundary of the Lake Minchumina resident zone	8/18/00
◆ Define the boundaries of the Telida and Nikolai resident zones	8/18/00
◆ Define the boundaries of the Cantwell resident zone	8/20/04

Chapter 3: Preserve Eligibility	8/18/00
Chapter 4: Subsistence Use Permit (13.44)	8/20/04
SRC Completed Actions -	
◆ Amend regulations to allow re-issuance of 13.44 permits to people residing along the Parks Highway (MP 216-239)	8/18/00
Chapter 5: Subsistence Access	8/18/00
SRC Proposed Actions -	
◆ Designate ATV routes for use by residents of Cantwell for moose and caribou hunting	8/18/00
◆ Allow access to Denali at the same level as 1980 with reasonable restrictions to preserve the environment	8/18/00
NPS Proposed Actions -	
◆ Define "traditionally employed"	8/18/00
Chapter 6: Resolution of User Conflicts and Closures	8/18/00
SRC Proposed action -	
◆ Provide input into the northern access feasibility study	8/20/04
◆ Review EIS for access to an inholding along Spruce Creek and recommend purchase of the property on a willing buyer/willing seller basis	8/23/02
◆ Participate in development of the Denali backcountry management plan	8/20/04
SRC Completed action -	
◆ Provide input into the south side development plan	8/23/02
◆ Implement a firearms discharge closure in the developed area of the Kantishna Hills	8/23/02
◆ Protect natural and healthy populations and subsistence use from the impacts of mining	8/23/02
Chapter 7: Wildlife Harvest	8/18/00
SRC Proposed Action -	
◆ Conduct a predator-prey relationship study in DENA	8/20/04
◆ Propose a wolf buffer zone to close hunting and trapping on the north-eastern areas of the park and preserve	3/05/01
NPS Proposed Action -	
◆ Define "Natural and Healthy"	8/18/00
SRC Completed Action -	
◆ Align wolf hunting season dates with trapping season dates	8/18/00

◆ Establish additional fall hunting season for moose in Unit 20C	8/18/00
◆ Establish a fall subsistence waterfowl hunt	3/05/01
Chapter 8: Trapping	3/05/01
<i>NPS Proposed Action -</i>	
◆ Clarify the NPS definition of “trap” in 36 CFR	8/18/00
Chapter 9: Harvest of Timber and Plant Materials	8/18/00
<i>SRC Proposed Action -</i>	
◆ Include the practice of making, selling or trading handicraft items made from plant materials under customary trade	8/18/00
Chapter 10: Subsistence Cabins and Shelters	8/18/00
<i>SRC Proposed Action -</i>	
◆ Revise the 36 CFR 13.17 cabin regulations	8/18/00
Chapter 11: Acquisition of Resource and User Data	3/05/01
<i>NPS Proposed Action -</i>	
◆ Document past and current information on subsistence uses and resources.	8/18/00
Chapter 12: Customary and Traditional Use Determinations	8/18/00
<i>SRC Proposed Actions –</i>	
◆ Designate the entire park and preserve as a traditional use area	8/18/00
◆ Participate in the revision of the C&T determination process	8/18/00
<i>SRC Completed Actions -</i>	
◆ Change customary and traditional use determinations for Unit 20(C)	8/18/00
◆ Individual C&T determinations for NPS lands	8/18/00
Chapter 13: Management of Fisheries	8/18/00
<i>SRC Proposed Actions –</i>	
◆ Collect historic information on the harvest of fish from local users and elders and include this information in the official records.	8/20/04
<i>NPS Proposed Action -</i>	
◆ Establish an NPS fisheries management program for Denali, Gates of the Arctic and Yukon-Charley National Park and Preserve cluster.	3/05/01

Appendix A: Title VIII

Appendix B: Review of NPS Subsistence Program

<i>Appendix C: SRC Meeting minutes 1984-present</i>	8/20/04
<i>Appendix D: Hunting Plan Recommendations</i>	8/20/04
<i>Appendix E: Approved Hunting Plan Recommendations</i>	8/18/00

Appendix F: Reference Maps

- Land Status
- Fisheries Management Jurisdiction
- Kantishna Area Firearms Discharge Closure
- Southcentral Regional Advisory Council Boundary
- Western Interior Regional Advisory Council Boundary
- Eastern Interior Regional Advisory Council Boundary

Appendix G: SRC members from past years 8/20/04

Appendix H: Environmental Assessments (EAs) and ANILCA Section 810 evaluations

Appendix I: Federal Subsistence Board Proposal Analysis 8/20/04

Appendix J: Summary of Harvest Data

Appendix K: Comments on the Plan

SUBSISTENCE RESOURCE COMMISSION FUNCTION



Photo courtesy of Julie Collins

The purpose of the Commission is to devise and recommend to the Governor and the Secretary of the Interior a program for subsistence hunting within Denali National Park.

Commission hunting program recommendations may address major topics related to management of subsistence, such as access, customary and traditional use determinations, eligibility, season and harvest limits, methods and means, traditional use areas, trapping, customary trade, cabin use, and research. After consultation with appropriate local advisory committees and regional councils, the recommendations of the Commission are conveyed directly to the Secretary of the Interior and the Governor. Guidelines for submission of hunting plan recommendations to the Secretary and Governor are summarized on page 5 of this chapter.

The Secretary must implement the hunting plan recommendation unless the recommendation:

- (1) violates recognized principles of wildlife conservation;
- (2) threatens the conservation of healthy populations of wildlife in the park;
- (3) is contrary to the purposes for which the park was established; or
- (4) would be detrimental to the satisfaction of subsistence needs of local residents.

If approved by the Secretary, such recommendations are implemented by any one of several appropriate means.

The Federal Advisory Committee Act and the Commission charter direct the operation of the Commission. The charter contains information required by both regulation and the Department of Interior's administrative procedures. Secretary of Interior, Bruce Babbitt signed the current charter in March of 1996 (pages 3-4).

The Commission reports to the Superintendent of Denali National Park and Preserve. However, since the establishment of the Federal Subsistence management program in 1990, the SRC has been making recommendations on harvest limits and customary and traditional use proposals affecting Denali National Park directly to the Regional Advisory Councils and the Federal Subsistence Board.

The Commission is comprised of nine local rural residents representing geographic, cultural, and user diversity from within the region. Each member's term on the Commission is for three years unless they resign or are removed for cause by the appointing source. The members are appointed as follows:

<u>Current Member</u>	<u>Appointing Source</u>
Florence Collins (Lake Minchumina)	Secretary of Interior
Ray Collins (McGrath)	Secretary of Interior
Percy Duyck (Nenana)	Secretary of Interior
Steve Eluska (Telida)	Governor of Alaska
Jeralyn K. Hath (Denali Park)	Governor of Alaska
Vacant Governor of Alaska	
Vernon Carlson (Cantwell)	Southcentral Regional Advisory Council
Gilbert Dementi (Cantwell)	Southcentral Regional Advisory Council
Paul Starr (Tanana)	Eastern Interior Regional Advisory Council

AUTHORITY:

ANILCA, Section 808 Park Subsistence Resource Commissions
Charter for Denali National Park Subsistence Resource Commission
Federal Advisory Committee Act (FACA)

SRC PROPOSED ACTION:

Recommendations to improve subsistence management in the parks.

ISSUE BACKGROUND:

- In their review of the document, “Review of Subsistence Law and National Park Service Regulations” the Denali SRC made a number of recommendations for improvement of subsistence management. They indicated that their comments were intended to result in greater flexibility for the Superintendent in decision-making regarding subsistence management issues and in other situations would enable some decisions to be made on a regional basis by individual parks rather than a rigid NPS statewide subsistence policy. The SRC recommended that:
 1. Management decisions made by the agency and the Secretary of Interior should be made more quickly than in the past. Examples given were of delayed responses to cabin reconstruction requests, traditional ATV determinations and the proposed roster regulations.

On May 17, 1999 NPS responded to this recommendation, saying that staff are working on bringing closure to the issues on the backlogged list. In addition, staff discussed the possibility of the Secretary delegating response to hunting plan recommendations to the Regional Director of Alaska. Such a delegation would allow a direct response to the SRC without working through the Secretary of Interior’s office. The Secretary has not yet decided whether or not to make that delegation. Staff continue to work through his office to respond to current recommendations (see pages 13-15).

On July 28, 1999 Acting NPS Director Anderson wrote to the Assistant Secretary for Fish, Wildlife and Parks requesting the delegation of signature authority on all SRC recommendations. If approved, the delegation of authority should expedite the responses to SRC recommendations. The letter appears on pages 15 and 16.

2. Subsistence decisions should usually be made at the park level based upon the area or regions traditional practices and traditions in response to environmental conditions and resource availability. NPS needs to recognize and allow for regional diversity in its statewide subsistence management program.
3. NPS recognize that within a given region or park subsistence uses and traditional practices are not rigid in time or place. Subsistence, by its own nature is dynamic; changing and evolving subsistence practices which are developing as new traditions need to be recognized and allowed so long as they are not impacting or detrimental to the resource.
4. Regulatory change proposals that affect subsistence users should be reviewed by the appropriate SRCs before final draft or proposed regulations are implemented. This concern arose when the NPS submitted the proposed trapping clarification regulation

prohibiting the use of firearms for the taking of furbearers, without formal SRC consultation.

- The SRC chairs met in Anchorage in October of 1998 and compiled a list of 9 recommendations. Recommendation number 2 indicated the Chairs' unhappiness over the long time frames required for a response from the Secretary of Interior when hunting plan recommendations are sent to Washington. Some SRCs have waited 5-10 years for a response on a hunting plan recommendation.

The Regional Office prepared a list of backlogged hunting plan recommendations from all 7 SRCs. The list included 8 recommendations dating from March of 1986 through 1998. Two hunting plan recommendations from Denali were included on the list: 1) a recommendation for roster regulations dating back from July of 1986, and 2) a recommendation requesting a charter amendment to allow the SRC to report to the Federal Subsistence Board as well as the Superintendent instead of the Alaska Regional Director. In March 96, the Secretary amended all SRC charters to state that SRCs can also report to the appropriate superintendent. The roster regulations have yet to be approved.

- A second SRC Chairs recommendation (#4) addressed the need for longevity in the tenure of park Superintendents. The Chairs' felt that knowledge of subsistence issues comes with tenure and that when personnel changes occur frequently that the parks and subsistence communities lose the experience and knowledge base. There is a need to retain institutional knowledge. The Chairs noted several improvements in this area. Notably: 1) greater authority has been delegated from the Regional Office to the Superintendents in recent years; 2) parks and the Regional Office have more consistent long-term employees on staff; and 3) the recent effort to develop park subsistence hunting plans has proven useful in documenting institutional knowledge.

NPS responded to this recommendation in a letter dated May 17, 1999. NPS stated that many subsistence managers in parks and in the Anchorage office have been in their positions for many years and have a wealth of experience. In many ways, they provide the continuity in tenure in staffing. NPS agrees that subsistence plans should help document the institutional knowledge of those that move on to other positions (see pages 13-14).

- The SRC Chairs met in October 1999 and made several recommendations which NPS responded to in February 2000 (letter is in Appendix B, pages 3-4). The SRC Chairs recommendations, NPS and Denali SRC responses follow (the Denali SRC letter is in Appendix B, page 4 and 5):
 1. NPS should develop an appeal/reconsideration procedure for hunting program recommendations that are responded to by the NPS Alaska Regional Director.

NPS Response: The authority to respond to SRC hunting program recommendations has been delegated to the NPS Alaska Regional Director. NPS feels that this will allow more timely responses to recommendations made by the SRCs. The opportunity for the SRC to request in writing that the Secretary of Interior review the Regional Directors responses

currently exists. If the SRC disagrees with the Regional Director, the SRC can write to the Secretary with their concerns.

Denali SRC Response: The Commission believes the delegation of authority to the Regional Director will expedite decisions and are happy to be reassured that recourse to the Secretary is possible if necessary.

2. The seven SRCs should work more closely together to resolve issues and the SRCs should exchange meeting minutes and hunting program recommendation correspondence.

NPS Response: NPS agrees and will do what they can to facilitate a closer exchange between Commissions. Meeting minutes and correspondence will be circulated to all SRCs.

Denali SRC Response: The SRC appreciates the offer to help SRCs communicate better and look forward to receiving copies of meeting minutes from other SRCs. Most SRCs have common interests and can offer common solutions to problems if they know each others ideas.

3. SRCs should meet twice a year.

NPS Response: There is no specific limit to the number of times the SRCs can meet in a year. Most already meet twice per year. Rather than identify a number of meetings to have per year NPS asks that the SRCs work with their individual park to meet as often as necessary (as park budgets permit).

Denali SRC Response: The SRC appreciates NPS funding for SRC and SRC Chairs' meetings and wish funding and time constraints could allow for more frequent meetings for both groups.

4. NPS should hold two SRC Chairs/NPS meetings annually instead of one.

NPS Response: This was not a concensus item identified by the Chairs. NPS is unable to fund two meetings per year at this time. However, if there are special issues that require a second meeting, NPS will consider doing so or arranging for a way that all can meet by teleconference.

Denali SRC Response: Same as for number 3 above.

- In the February 4, 2000 letter to the SRC Chairs (see Appendix B, pages 3-4) NPS stated that they are considering a revision of the National Park Service Subsistence Management Program document (contained in Appendix B beginning on page 7). NPS asked that each SRC review the document and forward any suggestions for improvement to Judy Gottlieb, the Associate Regional Director for Resources.

The SRCs comments on the draft paper, dated August 29, 1996 (see appendix B, pages 1-2) continues to represent the views of the Denali SRC with the exception of the one year residency recommendation (see chapter 2: Resident Zone Eligibility).

- The SRC chairs met once again in October 2000 and made a number of recommendations that NPS responded to in a letter dated February 8, 2001 (pages 16-18). The recommendations were:
 1. Review NPS regulations on traditional use of animal, vegetable and mineral resources for customary trade purposes.

NPS response: NPS agrees that customary trade regulations need to be reviewed. A request by NPS for SRC input resulted in only two responses. NPS will convene a group of staff to prepare some draft regulatory changes and present this to the SRCs at the next meeting.

2. SRC chairs asked to be more involved in developing the meeting agenda.

NPS response: Clarence Summers will begin working with the chairs at least two months prior to the next meeting to allow more involvement in agenda preparation and meeting content.

3. Solicit nominations, fill vacancies and make reappointments in a timely manner.

NPS response: NPS will try to expedite this process but the need to have appointments approved in Washington often takes time.

4. Amend SRC charters to establish alternate SRC membership positions to ensure a quorum at meetings.

NPS response: Over the next year NPS will 1) Determine who will select alternates, 2) determine how many alternates are needed for each SRC and 3) access the financial and logistical impacts of appointing alternates.

5. Establish a salmon advisory commission to deal with allocation issues.

NPS response: NPS does not think that establishing such a commission to advise a single federal agency would be effective or desirable. NPS will look for other ways to address subsistence concerns in a broader forum.

6. NPS should allow subsistence harvest of furbearers with a firearm under a trapping license in NPS areas.

NPS response: NPS is unwilling to move forward on this recommendation for a number of reasons. NPS feels strongly there are better ways to resolve this issue and will move forward with those ideas.

7. Allow the subsistence harvest of bird eggs in NPS areas.

NPS response: NPS cannot implement this recommendation alone. However, once US Fish and Wildlife Service regulations are adopted harvest of bird eggs will be allowed for qualified local rural residents.

8. NPS regulations should allow for the timely harvest and sharing of subsistence resources for potlatches and cultural events.

NPS response: NPS does not see a need to implement new regulations at this time. Federal Subsistence Board regulations already permit such uses. These regulations apply on NPS lands.

9. NPS should protect seal populations and air quality in Russell Fjord.

NPS response: This is little NPS can do respond to this recommendation. Russell Fjord lies outside the boundaries of Wrangell-St. Elias National Park.

SRC COMPLETED ACTION:

Amend the charter to allow the SRC to report not only to the park Superintendent, but to the Federal Subsistence Board on issues relating to Denali's hunting plan or proposals effecting seasons and bag limits and C&T use determinations on park lands.

CHRONOLOGY:

- The SRC submitted a hunting plan recommendation to Secretary Lujan in March of 1992 requesting a charter amendment and funding to enable the Chairperson or an appointed designee to attend and testify before the Federal Subsistence Board (letter on page 20).
- In 1992 the Secretary responded to the SRCs recommendation saying that SRC participation at Federal Subsistence Board meetings was unnecessary because there is already adequate opportunity for the SRC's concerns to be taken into account by the Federal Subsistence Board. He also stated that SRC participation at Federal Subsistence Board meetings was unnecessary because Section 808 of ANILCA provides a mechanism for the SRC to recommend actions directly to the Secretary (letter on page 20-21).
- The SRC must continue to make their concerns regarding seasons and bag limits, C&T use determinations, and other issues known to the Regional Councils and the Federal Board through existing mechanisms.

RESOLUTION:

- Currently the Western Interior and Southcentral Regional Advisory Councils have a member serving on their council who is also a member of Denali's SRC. This greatly enhances the exchange of information between the advisory groups.
- The Eastern Interior Regional Advisory Council does not have a Denali SRC member serving on the Council. When pressing issues have come before the Advisory Council on Denali matters, the Park has provided support and travel for attendance of a representative from the Denali SRC.

AUTHORITY:

ANILCA, Section 808: Park Subsistence Resource Commissions
Federal Advisory Committee Act (FACA)
41 CFR 101-6
50 CFR Part 100 Federal Subsistence Management

SRC COMPLETED ACTION:

Amend the charter to allocate one representative to the Denali SRC from the Western Interior Regional Advisory Council.

CHRONOLOGY:

- In November, 1993, the Western Interior Regional Advisory Council requested a change to the Denali SRC charter to permit the appointment of one of the Commission members from that Council (letter on page 23).
- The SRC responded favorably to this proposal in a letter dated December 1, 1993 (page 24). The Commission agreed to submit an amendment to the charter expiring in January 1995 allocating one seat on the Commission to each of three Subsistence Advisory Councils: Eastern Interior, Southcentral, and Western Interior.
- Regional Council appointees to the SRCs must be both a subsistence user of the park and also serve on a local advisory committee or regional council. A review of potentially eligible persons for this regional council revealed no candidates. It was recommended that a person from this region be appointed by one of the other two appointing authorities, the Governor of Alaska or the Secretary of Interior.

RESOLUTION:

- Although a change to the Commissions' charter has not been made, a representative from Telida, within the Western Interior region appointed by the Governor, is currently seated on the Commission. Also, a representative from McGrath, appointed by the Secretary of Interior, is seated on the Commission. Those Commission members provide the representation from the Western Interior Region sought by the Council.

AUTHORITY:

ANILCA, Section 808: Park Subsistence Resource Commissions
Federal Advisory Committee Act (FACA)
41 CFR 101-6
50 CFR Part 100 Federal Subsistence Management

SRC COMPLETED ACTION

Support limited expansion of Title VIII subsistence to selected lands within Denali National Park and Preserve.

CHRONOLOGY:

- The SRC reviewed a petition to extend Federal jurisdiction beyond Federal public lands at its February 17, 1995 meeting. The petition was submitted by the Northwest Arctic Subsistence Regional Advisory Council and other Native groups to the Secretaries of Interior and Agriculture. The SRC's response to the Federal Subsistence Board (on page 26) was generally in agreement with a limited expansion of federal jurisdiction, particularly in cases where use of lands selected but not yet conveyed could be opened to subsistence uses. However, the SRC did not favor a blanket expansion of federal subsistence management beyond conservation system unit boundaries or restrictions on activities off of federal public lands.
- Federal subsistence regulations for wildlife harvests do not provide for ANILCA subsistence on selected lands located within national parks or monuments and no state general/sport hunting is allowed. However, the Departments of Interior and Agriculture published a final rule in the Federal Register indicating their intent to amend the definition of "public lands" to include selected lands (Reference: *Federal Register*, Vol. 64, No. 5, p. 1287-88). NPS believes that the federal subsistence program should extend to selected lands. The regulation is expected to go into effect on October 1, 1999.

RESOLUTION:

- On October 1, 1999 Federal Subsistence Regulations governing the harvest of fish for subsistence purposes were published. These regulations contain a provision allowing for the harvest of subsistence resources on selected lands located within conservation system units. Therefore, as of this date, hunting, trapping and fishing is permitted on selected lands within the National Park Service units where these activities are authorized by the provisions of ANILCA .

AUTHORITY:

§____.4(2) 50 CFR Part 100 Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition to Include Waters Subject to Subsistence Priority; Final Rule



February 17, 1995

Federal Subsistence Board
1011 East Tudor Road
Anchorage, Alaska 99503

Dear Board Members:

The Denali Subsistence Resource Commission considered, at our February 17, 1995, meeting, the "petition to extend Federal Jurisdiction" submitted by the Northwest Arctic Subsistence Regional Advisory Council and other Native groups to the Secretaries of Interior and Agriculture. This request is for an expansion of federal subsistence management jurisdiction beyond the federal public lands. We have not, however, seen the full document and these comments are based only on the information presented in the comment period announcement.

We agree that a limited expansion of federal jurisdiction, in order to facilitate subsistence use of some lands that have been selected but not yet conveyed, could be beneficial. The process should be used on specific areas and species to enable local subsistence users to resume federal Title VIII subsistence uses denied them since 1990 when selected lands were determined to be closed to federal subsistence program. In the Denali National Park area, for instance, lands tentatively selected but not conveyed to the AHTNA and Doyon Native Corporations or the State of Alaska are closed to the federal subsistence program. Many of these lands were originally selected for their subsistence resources.

We do not, however, favor a blanket expansion of federal subsistence management beyond conservation unit boundaries, or restrictions "on activities off of federal public lands when it is necessary to protect subsistence uses of federal public lands". We feel this part of the proposal, as we understand it, is too broad and could be used to extend federal control beyond the lands necessary to protect the needs of subsistence users and wildlife populations.

Denali National Park Subsistence Resource Commission supports expanding Title VIII subsistence to selected lands within Denali National Park and Preserve.

Sincerely,

Florence Collins
Chair, Denali National Park Subsistence Resource Commission

CC:
Superintendent, Denali National Park and Preserve
National Park Service, Alaska Regional Office
Northwest Arctic Subsistence Regional Advisory Council
Eastern Interior Subsistence Regional Advisory Council
Western Interior Subsistence Regional Advisory Council
Southcentral Subsistence Regional Advisory Council
Honorable Tony Knowles, Governor of Alaska
Secretary of the Interior, Bruce Babbitt
AHTNA Regional Native Corporation
Doyon Regional Native Corporation

SRC COMPLETED ACTION

Request Commission member's attendance at meetings or their resignation.

CHRONOLOGY:

- In December 1993 the SRC sent a letter to Commission member Ken Leavitt asking whether he intended to continue as a member of the Commission. Mr. Leavitt had only been able to attend one Commission meeting. A response was requested by January 15, 1994 (letter on page 28).
- Another letter was sent in December 1993 to Harry Johns, Sr asking if he intended to remain a member of the Commission. Mr. Johns had not attended a meeting since his appointment by the governor. A response was requested by January 15, 1994 (letter on page 28).
- Harry Johns Sr responded to the SRC letter on December 21, 1993 with a letter of resignation. Due to poor health and the distance he lived from the Park he was unable to fulfill his obligations as an SRC member (letter on page 29).
- In January 1994, Hollis Twitchell phoned Mr. Leavitt and asked if he intended to remain on the SRC. He responded that due to work commitments he would be unable to fulfill his term on the Commission. Hollis sent a letter to Terry Haynes at ADF&G informing him of Mr. Leavitt's decision so the State could take appropriate action (letter on page 29).

RESOLUTION:

- The Commission accepted the resignations of the two SRC members and other individuals filled their seats.

RESIDENT ZONE ELIGIBILITY

It was the intent of Congress to limit eligibility for subsistence activities within Denali National Park to local rural residents who have a personal or family history of use of park resources. It was also Congress' intent that the NPS should manage eligibility by identifying eligible communities to the greatest extent possible, rather than basing eligibility upon an individual permit system. Through NPS rulemaking in 1981, four communities near Denali National Park were designated as Subsistence Resident Zone Communities for the Park. Cantwell, Lake Minchumina, Telida and Nikolai were identified as communities with a significant concentration of subsistence users who have customarily and traditionally utilized park resources. After consultation with Denali's SRC, boundaries for these resident zone communities were established. Resident zones authorize all permanent residents within these zones to participate in subsistence activities on NPS lands without a subsistence use permit (13.44).

Individuals who reside outside of the resident zone communities, who have customarily and traditionally used park subsistence resources, may apply to the Superintendent for a subsistence use permit (13.44). Approximately 320 local rural residents qualify for subsistence use activities within Denali National Park and Preserve.

Resident zones may be added or deleted based upon whether a community contains a significant concentration of subsistence users who have customarily and traditionally utilized park resources. For changing resident zone communities who may no longer be able to meet the significant concentrations criteria, the Denali and Lake Clark SRCs have recommended that the NPS adopt a third method (rosters), which would identify specific groups of people who would be authorized to participate in subsistence activities on NPS lands without having to get individual subsistence use permits. While the concept of the roster system was adopted by the Secretary of Interior implementing roster regulations have yet to be adopted.

Recently the NPS conducted a review of subsistence regulations and laws and received many comments and recommendations. This review has highlighted the complexity of many issues, particularly eligibility, and the need to conduct further discussions to resolve eligibility concerns.

The NPS recognizes the necessity for continued development and modification of the subsistence program based on review and input from the subsistence users, advisory councils and commissions, the general public, and legal and technical advisors. Future review of eligibility, including resident zones, will be done with the full participation of the above named parties.

AUTHORITY:

- 36 CFR 13.42, Definition of 'Local Rural Resident' and 'Resident Zone'
- 36 CFR 13.43, Determination of resident zones
- 36 CFR 63(a) Denali National Park subsistence resident zone communities

SRC PROPOSED ACTION:

Recommendations on determining eligibility of resident zone communities.

ISSUE BACKGROUND:

- In their comments on the “Draft Review of NPS law and regulations” the Denali SRC made reference to two aspects of subsistence eligibility that they had concerns about. In one comment, the SRC indicated their support for the concept of roster regulations. The Commission members also stated that they do not want to be responsible for picking the roster list members. They felt that they, as a group, were not familiar enough with all the individuals living in the resident zone to be able to fairly identify all eligible users (Appendix B, page 2).
- Another comment from the SRC stated that, “If a resident zone community is deleted and changes to a roster list of eligible subsistence users, then the people living there at that time, who have established a long-term pattern of subsistence use, would be eligible for a 13.44 permit or roster listing. In addition, people with the same qualifications (a long term pattern of subsistence use) that move out of an existing resident zone to a local rural area should also be eligible for a 13.44 permit.” The purpose of their motion was to ensure eligibility to people who entered the resident zone after the 1980 cutoff date (as proposed in the “draft review...”) and who have established a pattern of subsistence use of park resources, would be eligible for a roster system or 13.44 permit, provided they maintain a customary and traditional subsistence lifestyle and are still local rural residents to the park. The SRC felt this might alleviate problems of subsistence families disappearing from an area by allowing more recent subsistence users who have adopted and established the “customary and traditional” lifestyle to continue (Appendix B, pages 2-3).
- At their meeting in October 1998, the SRC chairs recommended that all SRC’s discuss the issue of a one year residency requirement and provide comments to John Vale (Wrangell St. Elias National Park Subsistence Resource Commission Chair) for consolidation and action. The one year residency requirement would include an exception for persons moving from one resident zone to another and other possible exceptions for persons who travel outside of a resident zone for a job or other reasons. The Aniakchak and Gates of the Arctic Commissions support the recommendation. The Denali SRC decided there was no need for such a requirement in their area but were supportive of the Wrangell-St. Elias Commission’s request (see letter on page 5). The Lake Clark SRC chose not to address the issue. At their meeting in April, the Wrangell-St. Elias SRC submitted a hunting plan recommendation to the Secretary requesting a one year residency requirement for the park (see SRC Chairs’ Recommendation number 1, page 9, Chapter 1, SRC Functions).

Federal fisheries regulations, published on October 1, 1999, contain a provision that requires a person to have lived in the State for one year prior to being eligible for

subsistence harvest of resources. This provision will partially address the issue raised by the Wrangell-St. Elias SRC.

- At the October 17, 1999 meeting of the SRC Chairs', the group discussed the one year residency requirement for resident zones proposed by the Wrangell-St. Elias National Park SRC the previous year. At the conclusion of the meeting the SRC Chairs recommended that each SRC determine if the one year residency requirement is needed since the October 1, 1999 federal subsistence regulations require an Alaska resident license.
- NPS responded in February 2000 saying that while the Alaska resident license requirement would limit people moving into the State from hunting under subsistence regulations for one year it does nothing to prevent someone from moving from another part of the State from hunting immediately once they establish residency in a resident zone. NPS asked that each SRC make recommendations on this issue and solicit recommendations from Regional Advisory Councils as well. If all SRC's support the Wrangell-St. Elias SRC proposal then NPS will look at the issue for all parks and monuments in the State (see pages 3-4, Appendix B).
- The Denali SRC revisited their position on the one year residency requirement at their February 14, 2000 meeting in Healy. The Commission agreed with the Wrangell-St. Elias SRC that a residency requirement should be in place that applies to Alaskans moving into resident zones, as well as the present requirement for non-Alaskans. The SRC passed a motion for a residency requirement with the same exceptions (for military service, college attendance, etc) that the Wrangell-St. Elias SRC proposed, but with a three-year stay required for eligibility instead of the one-year requirement they proposed. This longer requirement was considered necessary in order to reduce hunting pressure and preserve resources for long-time residents who have traditionally depended on them. The SRC felt it takes more than one year to sufficiently learn the area and the traditional use practices of the community (letter in Appendix B, page 5).
- In April 2001, the Denali SRC submitted a hunting plan recommendation asking for a minimum residency requirement of three years for individuals moving into the Cantwell Resident Zone. The residency requirement would have to be met before gaining eligibility to subsistence hunt in Denali National Park. The recommendation would permit individuals who temporarily leave the community to serve in the military or attend school to retain their eligibility for subsistence if residency in the community had previously been established. The SRC solicited comments on the hunting plan recommendation by February 28, 2002 (see page 5). The recommendation was sent to Secretary of Interior Gayle Norton in May 2002 (see page 6).
- The State of Alaska commented on the SRCs hunting plan recommendation on July 29, 2002 indicating that the residency requirement is not necessary. They cite Senate Report 413 (1979) and the State Attorney Generals opinion which imply that a durational residency requirement may not be used to identify who may engage in subsistence uses

under ANILCA. The State feels the 12 month residency requirement under Federal subsistence regulations (modified in 2000) is sufficient (see page 7).

CURRENT STATUS:

- The SRC received a letter from Acting Regional Director Marcia Blaszak (on behalf of the Secretary of Interior) on October 8, 2003 indicating that the Office of the Solicitor had determined that a residency requirement would be inconsistent with the intent of Congress as expressed in ANILCA (see page 8).

SRC PROPOSED ACTION:

Begin process of investigating Tanana for resident zone status and issue 13.44 subsistence use permits to eligible residents.

ISSUE BACKGROUND:

- The Eastern Interior Regional Advisory Council sent a letter to the Superintendent of Denali asking the NPS to assist the village of Tanana in gaining resident zone status (letter on page 11). The vote on this issue occurred at the Regional Council meeting in Tanana on February 4-5, 1997.
- The Denali National Park SRC requested that NPS evaluate the community of Tanana for possible inclusion as a resident zone. The SRC further requested that the NPS visit the community and issue subsistence use permits (13.44) to eligible people in the community (see meeting minutes for March 28, 1997, page 5, in Appendix C).
- The NPS provided the SRC a synthesis of the available literature regarding Tanana's use of the Park in the spring of 1997 (analysis on pages 11-15).
- Denali's subsistence coordinator scheduled a meeting in Tanana on August 20th, 1997 to issue subsistence use permits (13.44) to eligible subsistence users. Five hours were spent in the community working with the Tanana Tribal Council but no applicants applied for a permit. One individual, known to be interested in applying for a permit, was unable to meet with Denali's Subsistence Coordinator during the scheduled time. Denali's Coordinator agreed to return for another meeting in September at a time and date set up by the community leaders to give residents another opportunity to apply for subsistence use permits.
- The Denali subsistence coordinator returned to Tanana in September. No community members applied for permits. An individual who expressed interest in using the park area declined to apply for a permit stating that the park area was too far away from him to reasonably access it, so he is no longer interested in applying for a permit.

CURRENT STATUS:

- Denali National Park has begun an ethnographic overview and assessment study for the Park area. A component of this study will include preparation of village history reports for Tanana, Telida, Nikolai, Cantwell and Lake Minchumina. The village history reports are being prepared by representatives from the communities. Information on subsistence uses will be documented as well as other topics.
- A Native place names mapping project has been initiated. Information collected will help document the extent of use territories for the five Native groups (Upper Kuskokwim, Lower Tanana, Ahtna, Koyukon, and Dena'ina) associated with Denali.

- The Tanana Tribal Council member appointed to the Eastern Interior Regional Advisory Council stated that the park staff had worked with the community of Tanana to issue subsistence use permits for the park, but no one was interested in applying for one.

AUTHORITY:

36 CFR, 13.43 Adding resident zone communities

Preamble to NPS regulations in Federal Register, Vol. 46, No. 116, p. 31850

SRC PROPOSED ACTION:

Establish an alternative system of group eligibility (roster regulation).

ISSUE BACKGROUND:

- In 1986 the Lake Clark SRC, faced with increased numbers of new residents to two of their resident zone communities, proposed that an alternative system of eligibility be established. At the request of the SRC the resident zone status for two communities would be deleted and be replaced by a group authorization. In the same year the Denali SRC made a hunting plan recommendation asking for a similar system of eligibility for the community of Cantwell (recommendations and public hearing summary on pages 19-20).
- On April 22, 1988 the Secretary of Interior responded to the Denali SRC stating that he would direct the NPS to draft a rule that would implement that portion of the Commission's hunting program regarding subsistence eligibility for Cantwell (letter on page 21).
- Governor Steve Cowper responded to the SRC's recommendation directly to Secretary of Interior Manuel Lujan in August of 1989. The State opposed the proposed regulatory change for 3 reasons: (1) the State regulates subsistence uses, (2) concern over the long-term implications of the proposed rule on the State's ability to manage wildlife resources, and (3) the rule would unnecessarily complicate hunting regulations and discourage local cooperation and compliance (letter on pages 22-23).
- In September of 1989 the Acting Director of the NPS wrote to the State of Alaska's Director of State/Federal relations saying he felt a delay in publication of the proposed rule until the spring of 1990 would allow time for the NPS and the State to iron out differences they may have before publication of the draft regulations (letter on page 24).
- In 1991 the National Park Service drafted a proposed rule, which provided a group registration alternative to the resident zone/13.44 eligibility system. The proposed rule was sent to the Department of Interior for review before being published (letter from NPS Alaska Regional Director to the Director of the NPS, dated July 5, 1991 appears on page 25; the regulations follow on pages 25-35).
- The Alaska Regional Director sent a letter to the Director of NPS on July 9, 1993 in an attempt to get the draft regulation published (letter on page 36).
- The Denali SRC sent a letter to Secretary of Interior Bruce Babbitt on February 17, 1995 asking that the Department expedite the publication of the roster regulation (letter on page 37).
- The NPS Acting Field Director, Paul Anderson responded to the SRC letter (June 5,

1995) to the Secretary indicating that NPS continued to support the Commission in their recommendation to implement an alternative form of eligibility (letter on page 38).

- Comments from the Denali SRC in its August 29, 1996 letter to the NPS on the “Draft review of Subsistence Law and NPS Regulations” again addressed eligibility. The SRC recommended that if a resident zone were deleted and eligibility were changed to a roster list then people living in the community at the time who had established a long term pattern of use would be eligible for a subsistence use permit (13.44) or roster listing. Also people who move from a resident zone to another rural area in the local area would be eligible for a subsistence use permit (13.44) (SRC comments in Appendix B).

They also indicated their support for the concept of roster regulations. However, the Commission stated that they do not want to be responsible for picking the roster list members. The Commission felt that they, as a group, were not familiar enough with all the individuals living in the resident zone to be able to fairly identify all eligible users (Appendix B).

- Subsequent to sending the draft roster eligibility regulation to Washington D.C. for publication, NPS withdrew the rule from consideration based on the perception that the Lake Clark and Denali SRCs no longer supported such an action.
- In October of 1998 the Aniakchak SRC submitted a hunting plan recommendation to the Secretary of Interior directing the NPS to develop a roster or group eligibility system alternative to the resident zone/13.44 permit eligibility system. The NPS responded to their recommendations indicating that NPS will re-submit the draft proposed rule for the roster eligibility system. The proposed rule will only establish a mechanism for the implementation of a roster system for subsistence eligibility. In the future, when there is a need to replace existing resident zone communities with a roster eligibility system a second rulemaking will be initiated. Any such action will be done in full cooperation with the SRC and with public notice and meetings in the affected area (a portion of the letter to the Aniakchak SRC on recommendation 92-3 is on page 38, right side).

CURRENT STATUS:

- The draft rule has not yet been approved by the Department of Interior for publication as a proposed rulemaking.
- At the October 1998 meeting of the SRC Chairs the roster regulation was used as an example of the long period of time that passes between an SRC recommendation and a response from the Secretary of Interior. Although the SRC interest in immediate implementation of the roster regulation has waned, the SRC Chairs feel that there is still a need to implement the regulation now so that it can be implemented in the future if necessary.

AUTHORITY:

ANILCA, Section 801 Findings
36 CFR 13.40 Subsistence - Purpose and policy

NPS PROPOSED ACTION

Conduct a comprehensive review of NPS eligibility

ISSUE BACKGROUND:

- The recent review of subsistence regulations and laws (found in Appendix B) highlighted the complexity of many issues, particularly eligibility, and the need to conduct further discussions to resolve eligibility concerns. This review identified the many conflicts, problems, and unresolved issues relating to eligibility. Some of these issues include:

- Federal C&T determinations that are inconsistent with NPS resident zone determinations.
- How should patterns of subsistence use established after 1980 be dealt with
- Standards for issuing 13.44 permits
- How should we determine who are local rural residents for preserve areas
- Dealing with individual C&T determinations
- Should resident zones include large, sparsely populated areas outside the park
- How can we get a roster system implemented

These and similar issues have caused confusion and frustration for subsistence users and park managers alike. The review of these issues focused on interpretation and implementation of the existing regulations. It is now time to look further than the existing regulations. We need to take the experiences of the last 16 years and take a fresh and critical look at these regulations, which were, when implemented in 1981, identified as “interim guidance”. Subsistence resource commissions, regional advisory councils, the federal subsistence program and the information gained and lessons learned in the past 18 years were not available to the NPS when these regulations were adopted. We look forward to working with subsistence advisory groups, the state of Alaska, and other interested individuals and organizations as we conduct this further review.

- The SRC commented on several aspects of NPS eligibility when the “Draft Review NPS law and regulations” was circulated in 1996 and 1997. Their comments included:
 - The “significant concentrations” measure of 51% is not appropriate, but the term “cultural vitality” was generally appropriate (comments in Appendix B, page 3). The SRC felt that if the resident zone designation was changed at any time to a roster list, that these percentages would be unnecessary. The SRC and resident zone members would recognize a problem when it arose and could act on it at that time.

The “Draft Review...” initially stated that to be eligible for resident zone status NPS regulations require that the community be near the national park or monument and contain a significant concentration of rural residents who, without

the use of aircraft as a means of access, have customarily and traditionally engaged in subsistence uses within the park or monument. The significant concentrations test can be met by considering two factors: quantity of users and cultural vitality. NPSs initial interpretation of these two factors indicated that to meet the “quantity” tests a community must have 51% or more of the residents who would essentially qualify for a 13.44 permit. Furthermore, to meet the “cultural vitality” test, at least 51% of the community must be linked to subsistence use of park resources through cultural or family association, and that subsistence use must be consistent with local subsistence use customs. Based on comments from the Denali SRC and other, NPS later changed their interpretation. The statement regarding the requirement for “51% or more of the residents” to meet the tests was changed to “the majority of a community” for both the “quantity” and “cultural vitality” measures. “Cultural vitality” would be community based. Both factors may be used together in making resident zone community determinations.

- The SRC indicated their support for the concept of roster regulations. The Commission also stated that it does not want to be responsible for picking the roster list members. The Commission members felt that they, as a group, were not familiar enough with all the individuals living in the resident zone to be able to fairly identify all eligible users (Appendix B, page 3).
- Finally, the SRC stated that “If a resident zone community is deleted and changed to a roster list of eligible subsistence users, then the people living there at that time, who have established a long-term pattern of subsistence use, would be eligible for a 13.44 permit or roster listing. In addition, people with the same qualifications (a long term pattern of subsistence use) that move out of an existing resident zone to a local rural area should also be eligible for a 13.44 permit.” The purpose of their motion was to ensure eligibility to people who entered the resident zone after the 1980 cutoff date (as proposed in the “draft review...”) and who have established a pattern of subsistence use of park resources, would be eligible for a roster system or 13.44 permit, provided they maintain a customary and traditional subsistence lifestyle and are still local rural residents to the park. The SRC felt this might alleviate problems of subsistence families disappearing from an area, by allowing more recent subsistence users who have adopted and established the “customary and traditional” lifestyle to continue (Appendix B, page 2-3).

CURRENT STATUS:

- NPS recognizes the need for continued development and modification of the subsistence program and the importance of review and input from subsistence users, advisory councils, SRCs, the public and legal and technical advisors. When a comprehensive review of subsistence eligibility is undertaken, comments received from the SRC will be considered in the process. Furthermore, the SRC will be consulted on any changes NPS may propose in revision of the system of eligibility currently in use.

SRC COMPLETED ACTION

Define the boundary of the Lake Minchumina resident zone.

CHRONOLOGY:

- The Denali SRC submitted a hunting plan recommendation to the Secretary and Governor in 1986 suggesting retention of the community as a resident zone and establishment of a boundary 1 and ½ miles from the lake (Governors response is on page 42 and the recommendation is on pages 42-43).
- The Assistant Secretary for Fish Wildlife and Parks responded to the SRCs recommendation on August 19, 1986 saying that the Commission would be advised in writing by the Secretary of any inappropriate recommendations or procedures in the plan (letter on page 44).
- On April 22, 1988 the Deputy Asst. Secretary for Fish Wildlife and Parks responded to the SRC indicating that he would direct the Superintendent of Denali to implement the recommendation by following proper public notice procedures (letter on page 21 of this chapter).

RESOLUTION:

- Public notice of the new boundary for the Lake Minchumina resident zone was posted in the community along with a map (page 44-45). The boundary was thereafter established and the map placed on file in the Superintendent's office.

AUTHORITY:

36 CFR 13.63 Subsistence Resident Zone - Denali National Park

SRC COMPLETED ACTION

Define the boundaries of the Nikolai and Telida resident zones.

CHRONOLOGY:

- In June of 1994 the Denali SRC sent a letter to Superintendent Berry recommending resident zone boundaries be established for the communities of Nikolai and Telida. Maps indicating the proposed boundaries for the resident zone communities were included with the letter (letter and maps on pages 47-49).

RESOLUTION:

- The boundary descriptions and maps were posted in the communities and were subsequently established. Copies of the maps are on file in the Superintendent's office.

AUTHORITY:

36 CFR 13.43 Determination of Resident Zones
Preamble to 36 CFR (1981), page 71

SRC COMPLETED ACTION

Define the boundary of the Cantwell resident zone.

CHRONOLOGY:

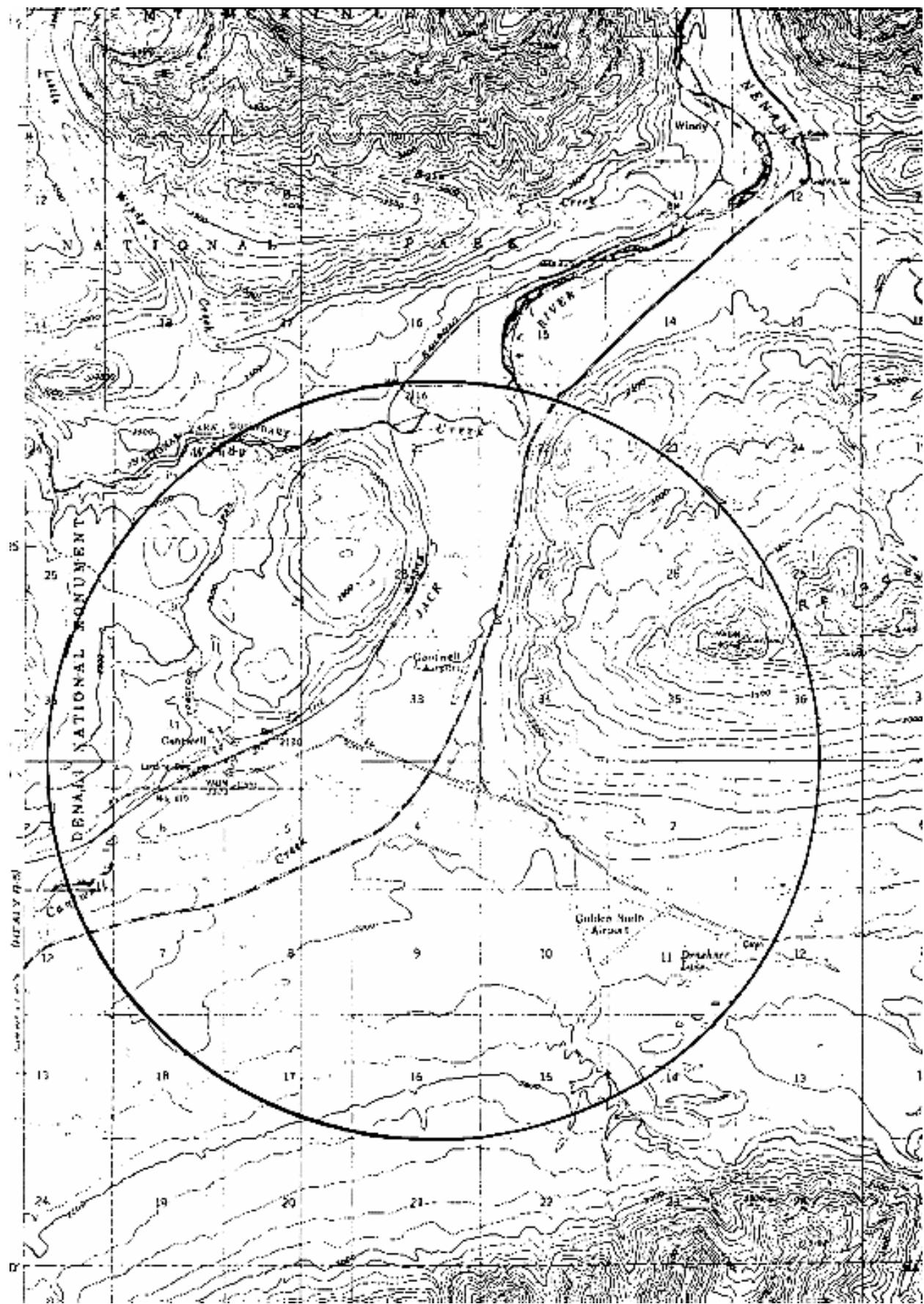
- In 1981-82, the NPS administratively established a boundary for the Cantwell resident zone. The boundary was set at a 3 mile radius around the post office.
- At the first meeting of the Denali SRC on May 10, 1984, the Commission discussed the Cantwell boundary and concurred with the boundary established by NPS (see meeting minutes in Appendix C for that date, page 4).

RESOLUTION:

- Park staff reverified Cantwell's resident zone boundary in 2004. The survey confirmed that the 3 mile boundary does not include the Happy Valley subdivision north of Cantwell. The boundary descriptions and maps are on file in the Superintendent's office. A copy of the map is on page 51 of this chapter.

AUTHORITY:

36 CFR 13.43 Determination of Resident Zones
Preamble to 36 CFR (1981), page 71



PRESERVE ELIGIBILITY

ANILCA specifies that Preserves should be managed in the same manner as parks, with few exceptions. One exception is that sport hunting is allowed in preserves but not in parks and monuments.

The preamble to the 1981 NPS regulations states that, "the need to identify local rural residents in the preserves is not as pressing as in the parks and monuments since sport hunting is allowed in the preserves." If in the future the NPS determines a need to further define eligibility regulations for the preserve, it will work closely with subsistence advisory groups to develop those regulations.

Local rural residents are eligible to hunt for subsistence purposes in the preserve. The term "local rural resident" has not been defined for preserves. However, any person who lives in the resident zone for Denali National Park or who has been issued a subsistence use permit (13.44) is eligible to hunt in the preserve provided they meet all the following requirements:

- ◆ are a local rural Alaska resident
- ◆ as an individual or as a member of a community have been determined by the Federal Subsistence Board to have a customary and traditional use of resources
- ◆ possess a valid State of Alaska resident hunting and/or trapping license
- ◆ comply with season and harvest limit regulations
- ◆ comply with any State or Federal permits, harvest tickets or tag requirements

Recently the NPS concluded a review of subsistence regulations and law and received many comments and recommendations on preserve eligibility (see document in Appendix B). The NPS does not believe there is a pressing need to further define local rural eligibility for the preserves at this time. The Federal Subsistence Board's customary and traditional use determinations appear to be adequate to define local rural residency for preserve eligibility. If in the future there appears to be a need to further define or regulate preserve eligibility, the NPS will undertake a public process to determine the best method of doing so.

AUTHORITY:

- ANILCA Section 1313 Administration of National Preserves
- 36 CFR 13.21(d) Hunting and Trapping
- 36 CFR 13.41 Applicability
- 36 CFR 13.42 Definition for local rural resident

SUBSISTENCE USE PERMIT (13.44)

A person or family that does not have their primary permanent residence within one of the four resident zone communities may apply for a subsistence use permit by calling or writing the Superintendent. The applicant must demonstrate that they have been or are a member of a family that has a history or pattern of using the ANICLA additions to the national park for subsistence purposes at the time ANILCA was passed (1980) without the use of an aircraft for access. In addition, people with a long term pattern of subsistence use that move out of an existing resident zone to a local rural area may also be eligible for a 13.44 permit. Park staff will interview the applicant and document his or her use. If qualified, the applicant will be issued a subsistence use permit authorizing the applicant to utilize subsistence resources from the ANILCA additions to Denali National Park and Preserve. The subsistence use permit is only valid in Denali National Park.

The Federal Subsistence Board decides what subsistence wildlife species are open to harvest, which communities and areas are eligible to harvest, when seasons open and close, how many animals may be harvested, the methods by which an animal may be taken, etc. Compliance with these regulations is made a condition of the NPS subsistence use permit.

The subsistence use permit does not expire and may cover all permanent residents of the household. When children leave the household they must obtain their own subsistence use permit. If the permittee changes his or her primary permanent residence the permit is void. A permit may be easily amended if the composition of the household changes due to marriage, birth, adoption, or if the permittee moves to a different rural residence. Approximately 16 subsistence use permits are currently active for Denali National Park.

Recently the NPS conducted a review of subsistence regulations and laws and received many comments and recommendations. This review has highlighted the complexity of many issues, particularly eligibility, and the need to conduct further discussions to resolve eligibility concerns. The NPS recognizes the necessity for continued development and modification of the subsistence program based on review and input from the subsistence users, advisory councils and commissions, the general public and legal and technical advisors. Future review of eligibility, including subsistence use permitting, will be done with the full participation of the above named parties.

The subsistence use permit (13.44) does not replace the requirement to have "positive C&T" before engaging in subsistence uses in the national park.

AUTHORITY:

- | | |
|--------------|--|
| 36 CFR 13.44 | Subsistence permits for persons whose primary, permanent home is outside resident zone |
| 36 CFR 13.51 | Application procedures for subsistence permits and aircraft exceptions |

SRC COMPLETED ACTION

Amend regulations to allow re-issuance of subsistence use permits (13.44) for people residing along the Parks Highway between mileposts 216-239 that were revoked by NPS.

CHRONOLOGY:

- In 1988 subsistence use permits issued to residents residing in the McKinley Village area were revoked by NPS. The Alaska Board of Game had ruled that the area was “non-rural” resulting in their inability to qualify for subsistence hunting in the park and preserve.
- In June of 1988 the SRC prepared a letter to the Alaska Board of Game expressing concern over recent changes in the customary and traditional use findings for moose and caribou. The change from a “positive” to “negative” finding resulted in a group of people living between Healy and Cantwell to lose their ability to hunt moose and caribou in Denali National Park and Preserve (letter on page 4).
- In July, 1988 the Alaska Department of Fish and Game responded to the SRC letter. Their response said that the joint Boards of Fish and Game had acted appropriately in changing the customary and traditional use determinations for moose and caribou in Units 20(A) and (C). The joint Boards were unable to decide in favor of the residents along the Parks Highway because they did not meet the eight criteria used in making a customary and traditional use determination. ADF&G suggested the SRC work with the NPS to have permits re-issued (letter on pages 4-5).
- In December of 1989 the SRC again wrote to ADF&G asking that they attempt to resolve the problem (letter on page 5).
- The SRC prepared a letter to the Federal Subsistence Board in March 1991 asking that regulations be revised to allow re-issuance of permits revoked by the NPS (letter on page 6).
- In September 1991 NPS responded to the SRC request on behalf of the Federal Subsistence Board. NPS indicated that they could only re-issue permits to people for those species in which they had a “positive” customary and traditional use finding (letter on pages 6-7).
- On November 23, 1993 the Eastern Interior Regional Advisory Council sent a letter to Ron McCoy, Chair of the Federal Subsistence Board. The Council stated that the Parks Highway C&T determination for the area near Denali National Park and Preserve should be given the highest priority for resolution (letter on page 7).
- In 1994 and 1995 NPS re-issued subsistence use permits to residents in the McKinley Village area.

- In February 1995, the SRC requested that the Superintendent of Denali inform the original subsistence use permit (13.44) holders what possible actions they might pursue to get their permits back (letter on page 8).
- On June 5, 1995, the Southcentral Regional Advisory Council made a recommendation to the Federal Subsistence Board asking that they review C&T use determinations for the area along the Parks Highway between mileposts 216 and 239 (letter on page 8).
- An SRC letter to the Federal Subsistence Board and the Regional Advisory Councils in the Southcentral, Western and Eastern Interior (June 1995) requested a review of the existing C&T determinations in the Denali area. The SRC asked the Board to grant a waiver to the 6 individuals whose permits had been revoked should the eight factors not be met by the community or areas as a whole (letter on page 9).
- The Denali SRC submitted a proposal (#19) to change the customary and traditional use determinations for moose and caribou in Units 20(C) and 13(E) for people living along the Parks Highway between mileposts 216-239 for the 1996-97 regulatory year.
- On April 26, 1996 the Denali SRC wrote a letter to the Federal Subsistence Board recommending adoption of proposal #19 as modified by staff analysis (letter on page 9).

RESOLUTION:

- The Federal Subsistence Board made a “positive” customary and traditional use determination for residents along the Parks Highway between mileposts 216 and 239 (letter on page 10). NPS permits that had been re-issued in 1994 and 1995 became valid for those species recognized under the new C&T determination.

AUTHORITY:

50 CFR 100
36 CFR 13.44

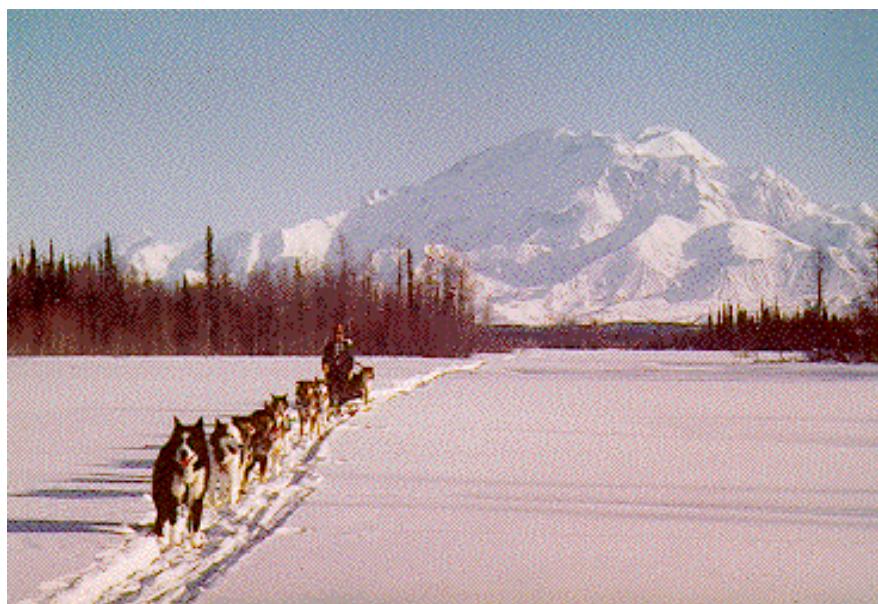
SUBSISTENCE ACCESS

ANILCA provides guidance as to the means of access permitted for subsistence use on public lands in Alaska. Other provisions within ANILCA, 36 CFR Part 13, 43 CFR Part 36, management policies, and presidential executive orders further restrict some types of access on public lands and wilderness units within park and preserve areas.

Access to subsistence resources is provided for in section 811 of ANILCA, which states:

- (a) The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.
- (b) Notwithstanding any other provisions of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local rural residents, subject to reasonable regulations.

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



Motorboats and Dog Teams: Motorboats may be used in the ANILCA additions to the park and preserve and dog teams may be used in both the park and preserve for traditional purposes, including subsistence.

Snowmachines: Snowmachines may be used for traditional purposes, including subsistence, in the ANILCA park and preserve additions providing there is sufficient snow cover.

Off -Road-Vehicles (ORV): ORV's are generally not permitted for subsistence within NPS lands, but their use may be permitted in specific areas if such vehicles were traditionally employed for subsistence purposes in those specific areas. In such cases ORV use may only occur on designated trails where it has been determined that their use will not adversely affect the natural, aesthetic or scenic values of the park lands. There are no designated trails or routes identified at this time in Denali National Park and Preserve.

Airplanes: The use of aircraft to access Denali National Preserve lands for subsistence purposes is permitted. In Denali National Park, airplanes are not permitted for providing access for subsistence taking of fish and wildlife. Subsistence users may not land outside the park, in the preserve, or on private land within the park/preserve boundary, and walk into the park to engage in subsistence hunting and trapping (see memo from the Office of the Solicitor, pages 3-4). A qualified subsistence user for Denali may use an aircraft in the park or preserve to carry supplies to a base camp or cabin but may not utilize an aircraft to work a trapline.

Motor Vehicles: Qualified subsistence users may travel the Park Road to the Kantishna Hills area for subsistence purposes by use of motor vehicles. A road access permit will be issued to subsistence users at Park Headquarters. Firearms carried while traveling in the old Mt. McKinley National Park area must be unloaded, cased and out of sight. They are to be made inoperable until such time as the subsistence user enters an area where subsistence hunting or trapping is allowed.

AUTHORITY:

ANILCA, Section 811 Access

ANILCA, Section 1110 Special access and access to inholdings

36 CFR 13.46 Use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed

36 CFR 13.45 Prohibition of Aircraft Use

36 CFR 13.73 Aircraft Use

Executive Orders 11644 and 11989

SRC PROPOSED ACTION

Designate ATV routes into the park for use by residents of Cantwell for subsistence moose and caribou hunting.

ISSUE BACKGROUND:

- The General Management Plan for Denali National Park and Preserve (1986)(page 38, Table 2, footnote 3) states: The use of off-road vehicles (ORVs) for subsistence purposes will be restricted to designated routes in areas where their use is customary and traditional. The Superintendent will designate routes in accordance with Executive Orders 11644 and 11989 and 36 CFR 36.10. Another section (page 45) on subsistence access states: ORVs are permitted for subsistence access where they can be shown to be a traditional means of access. Existing information indicates that ORVs have not regularly been used.
- In 1991 the NPS officially began prohibiting the use of ORVs and included a condition on all Federal Subsistence Registration Permits issued stating that ORVs could not be used in the Park.
- In 1992-93, the park boundary in the Cantwell and Wolf Township-Stampede areas were posted with “no ORV use” signs and Rangers began to officially enforce the ORV prohibition during hunting season patrols.
- In 1992 the park received a letter from Vern Carlson (Cantwell) and 8 affidavits from other Cantwell residents describing their use of ORVs for subsistence purposes. They asked that Superintendent Berry review the letters and remove the ORV restrictions.
- Superintendent Berry responded to Carlson in 1992 stating that 8 letters from a community of 147 was not conclusive, but that there was sufficient reason to open the question whether certain modes of transportation may have been traditionally employed for subsistence purposes. The park agreed to make an assessment of such uses and further evaluate the issue.
- In 1993 NPS held a public meeting in Cantwell to gather information and comments regarding pre-ANILCA use of ORVs in support of subsistence activities within the park additions. Sixteen people attended the meeting, completed a questionnaire and identified areas used on topographical maps. The public comment period was open for 30 days.
- In total, 24 subsistence users in Cantwell commented on their use of ORVs for subsistence purposes in the park. Comments came from the meeting in Cantwell in 1993 as well as the 8 letters describing ORV use that the Park received from Cantwell residents in 1992. One individual’s use began in the 1940s, three in the 1960s, twelve in the 1970s and four in the 1980s.
- Also in 1993 NPS staff made phone calls to Federal Registration Permit holders in an

effort to gather more information from subsistence users regarding ORV use. Eight telephonic interviews were made. No maps were received from these individuals showing ORV use areas.

- Superintendent Berry extended the comment period indefinitely in hopes of collecting more information from subsistence users on ORV uses in the park.
- In 1994-95 an NPS subsistence work group was formed to determine a process by which ORV access determinations would be made. No further action by Denali National Park and Preserve was taken on the Cantwell ORV issue pending recommendations by the work group.
- In 1995, the Denali SRC requested that ORV use be put on the agenda for the upcoming June 16, 1995 meeting.
- Also in 1995, Superintendent Steve Martin and Hollis Twitchell accompanied Vern Carlson on the ORV trails he has utilized in the Windy and Cantwell Creek areas. They also accompanied Lee Basner on portions of the Dunkle Hills road.
- Comments by the SRC on the “Draft Subsistence Law...” specifically addressed ORV use in Cantwell. The SRC said that people in Cantwell had traditionally used ORVs and that ORV use for retrieval of moose meat from subsistence hunts should be permitted. They recommended monitoring of the situation to assess impacts and suggested that a trial period of use, perhaps one hunting season with restrictions, be allowed as a test of the advisability of continuing ORV use in the park (comments in Appendix B).

CURRENT STATUS:

- The NPS is in the process of preparing an environmental assessment on subsistence ORV use by Cantwell subsistence users.

AUTHORITY:

ANILCA Section 811 Access
Executive Order 11644 and 11989

SRC PROPOSED ACTION

Allow access to Denali at the same level as 1980, with reasonable restrictions to preserve the environment.

ISSUE BACKGROUND:

- The Denali SRC indicated in their comments on the NPS subsistence program document (See appendix B for a copy of the SRCs comments and the document) that access should be allowed at the same level as 1980, with reasonable allowances for restrictions to preserve the environment.
- The comments the Denali SRC provided to the NPS in August 1996 on the document, “Draft of Subsistence Law and NPS Regulations” document indicate that the SRC supports determinations made on a community basis and on the basis of routes and effects, but not on an individual basis. They also commented that the determination should not be based on vehicle type because retaining flexibility in allowing new vehicle types could lead to less damage from them than from older machines (see SRC comments in Appendix B).
- In October 1998, the SRC chairs prepared a recommendation on ATV/ORV use, stating that each park and park SRC should make individual determinations on what ATV/ORV use is acceptable in that park, and include consideration of new, yet unknown technologies and shifting seasons. The Chairs’ felt that a statewide ATV/ORV policy was not realistic.

NPS agrees that determinations on ATV/ORV use must be made on an individual park basis (see page 9, number 5 in chapter 1: SRC Functions) in accordance with Title VIII of ANILCA and other applicable laws and regulations.

CURRENT STATUS:

- After consideration of comments received, NPS revised their position on ATV/ORV access. ORVs are prohibited for subsistence use except where found to have been traditionally employed. Determinations of where ORVs have been traditionally employed should be made on a community or area basis. Where found to have been traditionally employed, their use for subsistence purposes is subject to reasonable regulation to protect park values and park resources (see “NPS Subsistence Management Program”, Appendix B).

NPS PROPOSED ACTION

Define the term "traditionally employed".

ISSUE BACKGROUND:

- A method needs to be developed to recognize and allow for the natural evolution of technology within a culture.
- The Denali General Management Plan (1986) discusses subsistence access (page 45). The plan states that,

Off-road vehicles are permitted for access for subsistence purposes where they can be shown to be a traditional means of access. Existing information indicates that specific ORV use has not regularly been used for subsistence purposes.

Any additional information about traditional means will be reviewed on a case-by-case basis.

A definition of “traditional” is provided in Appendix I of the General Management Plan.

CURRENT STATUS:

- NPS will work with the SRCs and other advisory groups on a case-by-case basis to further define, monitor and regulate the use of ORVs and ATVs.

AUTHORITY:

ANILCA Section 811 Access

RESOLUTION OF USER CONFLICTS AND CLOSURES

Planning and Consultation

Park planning provides a foundation for decision making and represents an organizational commitment to the public and to the Congress on how parks will be managed. Denali's SRC contributes significantly to park management by identifying and providing recommendations to the Superintendent for resolution of user conflicts.

Several of Denali's planning documents discuss subsistence use and management at various levels of detail and are reviewed and updated for different periods of time. For example, the General Management Plan (GMP), which provides overall guidance to park management for preservation and use of park resources, typically has a planning period of ten to fifteen years. Stepped down from the GMP is the Resource Management Plan (RMP) which provides detailed descriptions of resource management programs and activities and proposed future actions for a period of approximately five years.



Stepped down from the RMP is the Subsistence Management Plan (SMP) which is intended to provide the most detailed clarification of subsistence uses and practices with review and updates as necessary with a planning timeframe of one to five years.

For complex planning efforts the NPS prepares development concept plans (DCPs). The DCP is the next stop toward implementation of development goals described in general terms in the GMP. Often these documents are very detailed, containing design drawings and multiple alternatives for development.

Examples of detailed development concept plans that the SRC have actively been consulted on are the South Side of Denali Development Concept Plan and the Front Country Development Concept Plan.

Denali staff will actively consult with the SRC on all planning efforts and DCPs undertaken in the park that may have an effect on subsistence resources or uses. Other major issues such as the northern access feasibility study have been brought before the Commission for their recommendations.

Active participation by the SRC has led to modification in these plans which has minimized or eliminated potential user conflicts between subsistence users and other park visitors.

Rural Preference

ANILCA provides a preference for local rural residents over other consumptive users should a shortage of subsistence resources occur and allocation of harvest become necessary. This is particularly important for National Preserves when state subsistence and general hunting and trapping is allowed in addition to Federal subsistence use. When harvest must be limited, state subsistence and general hunting opportunities must be restricted first before any reduction in the harvest for Federal subsistence users occurs.

Subsistence Allocation

When there is not enough of a resource for everyone, only subsistence users most dependent on wild foods may hunt and trap. In this case, criteria identified in Section 804 of ANILCA are used to differentiate among qualified subsistence users. Those three criteria are:

- 1) customary and direct dependence upon the population as a mainstay of livelihood;
- 2) local residency; and
- 3) the availability of alternative resources.

Subsistence and Land Use Decisions

Section 810 of ANILCA requires that the park prepare an evaluation of potential impacts to subsistence users and resources for agency actions involving the withdrawal, reservation, lease, or permitted use and occupancy of park or preserve lands. This analysis is to address potential impacts to habitats, and the potential impacts to subsistence users by increased competitive resources. If the proposed action is found to have a significant impact to subsistence, reasonable steps must be taken to minimize the adverse impact upon subsistence uses and resources.

Closures

The Superintendent of Denali National Park and Preserve may close an area or restrict an activity on an emergency, temporary or permanent basis. Temporary or emergency closures are implemented for reasons of public health and safety, administration, or resource protection. The SRC may play a role in this process by recommending to the Superintendent and the Federal Subsistence Board when and where closures should be implemented if subsistence uses or values are at stake.

AUTHORITY:

36 CFR 13.30 Closure procedures

36 CFR 13.50 Closure to subsistence uses of fish and wildlife

ANILCA, Section 802

ANILCA, Section 804

ANILCA, Section 810

SRC PROPOSED ACTION

Provide comments on the northern access feasibility study.

ISSUE BACKGROUND:

- Under development by State and NPS planners is an objective study of the practicality and feasibility of a new northern access route into Denali. The deadline for completion of the preliminary study was March 1997. A questionnaire regarding north access was distributed to Commission members at its August 9, 1996 meeting. Individual SRC members submitted comments in response to the questionnaire (copies of the comments appear on pages 6-11).
- The Denali SRC had on several instances in the past expressed their opposition to road construction in Denali National Park and Preserve. In April 1986 the Denali SRC made a hunting plan recommendation opposing construction of any new roads within the park (recommendation on pages 11-12).
- On December 1, 1993 the SRC sent letters to Secretary of Interior Bruce Babbitt and Commissioner Campbell of the State of Alaska reiterating their position on road construction previously transmitted under hunting program recommendation #6 of April 1986 (letters on pages 12-13).
- Commissioner Campbell responded to the SRC letter on December 21, 1993. The Commissioner stated that indeed there was consideration being given to an access road from the Parks Highway to McGrath with access to Kantishna. This route would require crossing Denali Park and Preserve lands. He said the development process is an open public process and that the SRC would be put on the Department of Transportation's mailing list to receive information on the project as it progresses (letter on pages 13-14).
- Secretary of Interior Bruce Babbitt responded to the SRC letter on December 23, 1993 stating that he appreciated the SRC sharing their concerns with him (letter on page 14).
- In a February 17, 1995 letter to Secretary of Interior Bruce Babbitt the Denali SRC opposed the construction of a road or railway bed from the Parks Highway to Kantishna (letter on page 15).
- At the February 2002 meeting, the SRC approved a motion opposing the construction of a road from Sushana to Kantishna. They further went on to say that the proposed access route would adversely affect wildlife populations and habitat (Appendix C, February 22, 2002 meeting minutes, page 1).

CURRENT STATUS:

- The SRC met on February 21, 2003 in Healy and expressed strong opposition to the North Access proposals to build either a railroad or a road from the George Parks Highway, near Healy, to Kantishna within Denali National Park. Letters were sent to Governor Murkowski and Secretary of Interior Gail Norton expressing the SRC's views on this issue (see letters on pages 15-17).

SRC PROPOSED ACTION

Review the EIS for access to an inholding along Spruce Creek in the Kantishna Hills and recommend purchase of the property on a willing buyer/willing seller basis.

ISSUE BACKGROUND:

- The National Park Service (NPS) is considering an application for access to an inholding along Spruce Creek in the Kantishna Hills of Denali National Park and Preserve. The applicants purchased a 20-acre parcel of land, called Spruce #4, in June 1997, and they subsequently applied for a right-of-way (ROW) permit for access to their parcel. They seek permission to construct and maintain a road and airstrip for the purposes of constructing and operating a remote wilderness lodge with 30 double-occupancy cabins for overnight visitors to the park.
- NPS has prepared a draft EIS. A 60-day comment period will begin on approximately July 21 and conclude on September 21, 1999. Public hearings on the EIS are scheduled for Anchorage, Fairbanks, McKinley Village and Kantishna the week of August 23. The following week a hearing will be held in Washington DC. The NPS has not chosen a preferred alternative. Four action alternatives and a no action alternative are being proposed in the EIS:

MOOSE CREEK ACCESS: The applicants proposed a route up Moose and Spruce Creeks with use of the Glen Creek airstrip. The route consists of 9.7 miles of mining access trail along and through Moose Creek and 0.5 miles of new road and improvement of the Glen Creek airstrip.

NORTH BENCH ROUTE: This route goes up the Moose Creek mining access trail to the first crossing of Moose Creek, then mostly new road would be constructed along the north bench of Moose Creek to Spruce Creek with use of the Glen Creek airstrip and segments of existing mining access. This route consists of 5.5 miles of existing mining access trail and 3.5 miles of new road and improvement of the Glen Creek airstrip.

SKYLINE DRIVE ROUTE: This route follows the existing Skyline Drive and parts of mining trails in the Glen Creek Valley, and new construction would occur between Skyline Drive and the Glen Creek drainage and over the saddle between Glen and Spruce Creeks, to the Spruce #4 parcel. The applicants would use the Kantishna Airstrip. This route uses about 12 miles of existing mining access trail and requires about 2 miles of new road.

AIRSTRIPE AND SPUR ROAD: This alternative consists of constructing a new airstrip by Spruce Creek and building a spur road to the Spruce #4 parcel of land. It includes about 0.5 miles of new road and airstrip.

- Approximately 400 letters have been received on the draft EIS. About 95% of the comments were in favor of the “no action” alternative and encourage NPS to purchase the property. NPS has made an offer to purchase the property but the two sides have not been able to reach agreement on a sale price.
- The DENA SRC passed a motion at their meeting in February 1999 requesting that NPS purchase the Spruce 4 property on a willing buyer-willing seller basis to prevent this new development. The SRC believes the development would have an adverse impact on subsistence resources and uses in the park (see letter on page 20).
- The comment period on the draft Environmental Impact Statement evaluating the impacts of allowing access to the in-holding on Spruce Creek was open from about July 21 through September 21, 1999. At the August 6, 1999 meeting, the SRC passed a motion requesting that NPS purchase the property on a willing seller-willing buyer basis to prevent new development that the Commission believes will have an adverse impact on subsistence resources and uses in the park.
- The Spruce 4 Draft EIS was put on hold while the owners considered the NPS purchase offer. The NPS offer has been stalled in Congress, primarily by Senator Murkowski. The purchase deal has a sunset date of February 28 after which time NPS would release the final EIS. The NPS preferred alternative is air access only after the lodge is constructed but that could change with the new Secretary of the Interior.

CURRENT STATUS:

- NPS closed on the acquisition of the Spruce 4 property in Kantishna in February 2002. The previous joint owners each retained an acre with cabins for private (non-commercial) use. Access to the personal cabins by the owners will include limited vehicular access on existing mining trails and use of the Glen Creek airstrip. An Environmental Assessment regarding personal access is being compiled pursuant to ANILCA section 1110(b) - access to inholdings. If the property is ever sold or transferred the sale of the property and cabins will also include access rights.



March 1, 1999

Steve Martin
Superintendent Denali National Park and Preserve
P.O. Box 9
Denali Park, Alaska, 99755

Dear Steve:

At the February 26, 1999 meeting of the Denali Subsistence Resource Commission, we discussed the new recreational development and request for improved road access caused by private inholders of the Spruce Four property in the Kantishna Hills area within the northern park addition. The Commission passed a motion, by a vote of seven members in favor and one abstention, requesting that Denali National Park purchase this property, on a willing buyer-willing seller basis, to prevent new development that we believe will have an adverse impact on subsistence resources and uses in the park.

Thank you for your consideration in this matter. If you need further information, please contact me at (907) 457-2674.

Sincerely,

Florence Collins

Florence Collins,
Chair, Denali Subsistence Resource Commission

CC:
Bruce Babbitt, Secretary of the Interior
Bob Barbee, Director, Alaska Regional Office

SRC PROPOSED ACTION

Participate in development of the Denali Backcountry Management Plan.

ISSUE BACKGROUND:

- At the SRC's April 30, 2001 meeting park planner, Mike Tranel, presented information on the Backcountry Management Plan. The plan will address recreational use and impacts in Denali and will amend the 1986 General Management Plan by providing a clearer vision and more specific directions for future backcountry management. Four preliminary alternatives were developed differing in levels and types of visitor activities and in the types of management actions that will be taken to protect resources. Subsistence use will not be addressed in the plan. Each alternative assumes that subsistence uses will continue on ANILCA park and preserve lands. The SRC discussed concerns regarding new and expanding recreational use, the NPS definition of "traditional activities" used in snowmachine regulations, displacement of subsistence resources near Cantwell due to increasing recreational use, proposed registration and reporting requirements for backcountry use, recreational impacts or conflicts with subsistence users and the importance of protection significant subsistence use areas such as regions near villages and traplines. Following these discussions several motions were passed (see page 23), including:

1. Make traditional subsistence use a priority over other uses in the backcountry plan. NPS should establish guidelines to protect subsistence values and uses over other uses (recreational and commercial) to make subsistence a priority if future conflicts develop. Use ANILCA Section 102 as a guideline in evaluating whether recreational and commercial uses are impacting resources or subsistence opportunities. Members were concerned about the affects of increasing recreational uses (particularly snowmachining near Cantwell) on backcountry resources and the potential to disrupt the subsistence way of life.
2. The commission recommends that the area from Windy Creek to the Bull River be designated an area primarily for traditional subsistence use. Change the proposed classification in the BMP from "Backcountry Area" to "Natural Area" to limit recreational use conflicts with traditional subsistence uses.

CURRENT STATUS:

- In a February 24, 2003 letter to Superintendent Paul Anderson, the SRC recommended that the NPS make traditional subsistence use a priority over other uses in the backcountry management plan. The Commission also passed a motion to support Alternative D of the backcountry management plan with regard to snowmachines in the park additions (see letter on page 24).
- An additional letter was sent to Superintendent Anderson on February 24, 2003. The commission voted unanimously to oppose commercial guiding of hunters in the north

Preserve (see letter on page 25).

SRC COMPLETED ACTION

Provide input into the South Side Development Concept Plan.

CHRONOLOGY:

- NPS working with the State, Mat-Su and Denali Borough, Cook Inlet Region Inc. and AHTNA, Inc. reviewed ways to provide for visitor access and use while protecting the outstanding resources and existing public uses of the area. A draft plan and environmental impact statement (EIS) was distributed for public review in March, 1996. The final plan and EIS was released in December 1996.
- The proposed plan included construction of a new visitor center, a campground, public use cabins and interpretive trails in the Tokositna area on the western side of Denali State Park. The plan also called for improvements to the Petersville Road to provide access to the new facilities.
- The Denali SRC prepared comments on development in the Dunkle Hills and Broad Pass area of the Park in reviewing the Denali Task Force report of October 1994. These areas are considered in the Denali South Side Development Concept Plan as well, making the SRC comments on the issue relevant to this issue. The SRCs February 17, 1995 letter to the Task Force opposes development or significant recreational use in the Dunkle Hills area due to the potential negative impacts on caribou habitat. The Commission also opposed additional public development in the Broad Pass area because of potential impacts on wildlife habitat and disruptions in movement patterns as well as the potential for a significant increase in recreational use creating increased conflicts with subsistence users (letter on page 27).
- The Southcentral Regional Advisory Council, at its June 5, 1995 meeting, unanimously adopted a motion to support the Denali SRC in opposing development in the Dunkle Hills area and maintaining it open for subsistence uses (letter on page 27).
- Superintendent Russ Berry responded to the Southcentral Regional Advisory Councils letter on January 31, 1994. In the letter he said the proposed trails in the Windy-Riley Creek and Dunkle Hills areas were no longer being considered in the South Side Plan (letter on page 28).
- The final South Side Denali Plan was released in January 1997 and a record decision followed in February of that year.

RESOLUTION:

- The SRCs main concerns were addressed in the plan.

SRC COMPLETED ACTION

Implement a public safety firearms discharge closure in the developed area of the Kantishna Hills within Denali National Park.

CHRONOLOGY:

- In a letter dated February 17, 1995 addressed to the Federal Subsistence Board, the Denali SRC supported a proposal (#53) implementing a closure, in approximately 10 square miles of the Kantishna Valley, to subsistence hunting. The SRC stated concern for visitor safety as their primary reason for support of the proposal (letter on page 31).
- At its April 10-14, 1995 meeting, the Federal Subsistence Board deferred action on proposal 53. They recommended that the agency resolve the issue through its own agency administrative authority and implement a closure, if desirable, under provisions of 36 CFR.
- At the SRCs June 16, 1995 meeting, Hollis Twitchell, Denali Subsistence Coordinator, informed the SRC of the Federal Subsistence Board action (see meeting notes of that date in Appendix C, page 4). The SRC recommended that NPS promulgate a closure under 36 CFR as specified in proposal 53, with a modification that the ending date for the closure be September 12 instead of September 30th.
- The NPS developed a proposed rule that would establish a recurring annual closure to the discharge of firearms on federal public lands in the developed area of Kantishna. The justification for the action was that this period is the time of heaviest overlap between hunting and other seasonal visitor activities. The intent of the proposal is to protect public health and safety while accommodating the various public user groups to the fullest extent possible. The purpose of the closure is to reduce the level of risk of firearm-related injury inherent in heavy use-areas. The restriction would not apply to private or State property.

The regulation in 36 CFR Part 13 §13.63(g) "Firearms" reads:

Beginning June 1 and ending at midnight of the second Thursday following Labor day, the discharge of firearms, except in defense of life or property, is prohibited on or across federal public lands within one mile of the State Omnibus Act Road right-of-way from the former Mt. McKinley National Park boundary at mile 87.9 to the north end of the Kantishna airport.

- NPS initiated a temporary closure as specified in proposal 53.

- In 1996 the NPS prepared draft regulations establishing a reoccurring annual closure to the discharge of firearms during the period of high recreational visitor use activity and hunting season. The draft rule is being submitted to the Federal Register for public comment.
- In the 1997 Annual Report of the Southcentral Regional Advisory Council (April 1998), the Council recommended that the Kantishna firearm restriction be viewed as a one-time action and asked that NPS give the Council some written assurance that the action would not be interpreted as precedent setting for possible similar actions elsewhere on park lands in Alaska.

The Federal Subsistence Board responded to this recommendation (August 13, 1998) by saying that they noted the Council's concerns and understood that NPS would respond to their recommendation in the Annual Report (see page 31-33).

- Superintendent Martin responded to Southcentral Regional Advisory Council Chair Ewan's comments by saying that the Kantishna closure was a response to a very unique set of circumstances and NPS does not consider it to be precedent setting. Martin emphasized that the firearms discharge closure is not a subsistence hunting prohibition and that the length of the moose hunting season in the Kantishna Hills region is longer than any other moose hunting season in the Southcentral Region except for a 120 day season in Denali National Preserve in Unit 16B (letter on pages 33-34).

RESOLUTION:

- The draft regulations establishing a re-occurring annual closure to the discharge of firearms in the Kantishna area is in Washington waiting publication in the Federal Register. Once published the regulation will be open for public comment.
- A map showing the area affected by the firearms discharge closure is on page 35.

AUTHORITY:

36 CFR 13.30 Closure procedures
 50 CFR Part 100 Federal Subsistence Management

SRC COMPLETED ACTION

Ensure protection of fish and wildlife populations and subsistence uses from the impacts of mining in the Park.

CHRONOLOGY:

- In a July 1986 recommendation (#4) the Denali SRC requested that if the Dunkle mining area were transferred from NPS to the State of Alaska that maintenance of natural and healthy populations and a continuation of subsistence uses be protected. They recommended that protective conditions be attached to the transfer (letter and recommendation on pages 37-38).
- Another recommendation (#5) made at the same time (July 1986) addressed mining activities in general. The SRC expressed concern over the pollution or degradation of fishing streams and wildlife populations as a result of mining activities. The recommendation stated that maintenance of healthy streams was a top priority for the subsistence lifestyle and natural and healthy populations (letter and recommendation on pages 37-38).

RESOLUTION:

- No further action on the issue is necessary.

AUTHORITY:

36 CFR 13.30 Closure procedures
50 CFR Part 100 Federal Subsistence Management

WILDLIFE HARVESTS

Subsistence harvest of wildlife is allowed in the ANILCA additions to Denali National Park and Preserve by qualified subsistence users subject to Federal subsistence management regulations.

Sport and general harvest of wildlife is allowed in the preserve additions to Denali subject to State of Alaska hunting regulations. State harvests are regulated by the Alaska Board of Game while federal subsistence harvests are regulated by the Federal Subsistence Board. Regardless of the type of hunt you participate in, an Alaska resident hunting license is always required, unless you are under the age of 16. Harvest tickets and tags are generally required for the harvest of all large mammals.



Often there are federal subsistence hunts and State hunts occurring simultaneously in the preserve. In those cases, you may not add harvest limits from federal subsistence and state hunts to increase your total harvest limit.

ANILCA provides a preference for local rural residents over other consumptive users should a shortage of subsistence resources occur and allocation of harvest becomes necessary. This is particularly important for National Preserves where State sport hunting and trapping is allowed in addition to Federal subsistence hunting and trapping.

Denali Park Additions

To be eligible to hunt for subsistence purposes in the ANILCA additions to Denali National Park an individual must live in a resident zone or have been issued a subsistence use permit (13.44) and have a positive customary and traditional use determination for the area (and species) which they are hunting. The

hunter must also hunt within the confines of the published season and bag limit listed in the Federal Subsistence Management Regulations booklet for the area in which they are hunting and comply with all requirements and restrictions set forth in that document.

Customary and Traditional Use Determinations

Customary and traditional use determinations (C&T) define which communities or areas have customarily and traditionally taken a wildlife population. To hunt in a particular area or for a particular species an individual must have a "positive" C&T determination. These determinations are listed in the Federal Subsistence Management Regulations booklet by game management unit.

Federal Subsistence Board

The Federal Subsistence Board is the decision-making body that determines what the C&T determination will be for a given area or species, when seasons open and close, how many animals may be harvested, the method by which an animal may be taken, etc. The Board makes changes to the regulations on an annual basis according to a regular schedule. The deadlines vary somewhat from year to year but the general pattern remains consistent:

Late October/Early November	Deadline for submission of proposals to change regulations
February through March	Each of the 10 Regional Advisory Councils meet to consider proposals received and public comments. At these winter meetings the Councils prepare recommendations to the Board on what actions they feel should be taken on each proposal affecting their area.
May	The Federal Subsistence Board meets and makes decisions on each proposal based on SRC, Regional Advisory Council and other public input.
July 1	New regulations go into effect.

The Role of the SRC

The SRC plays an important role in this decision making process. The Commission may develop season and bag limit, method and means, or C&T proposals, and submit them to the Federal Subsistence Board during the annual regulatory change process. The Southcentral, Eastern Interior and Western Interior Regional Advisory Councils rely on the SRC's input on all regulatory change proposals that affect Denali National Park and Preserve. Likewise, the SRC and Regional Advisory Councils' input on proposals may influence the NPS position on proposals as well as the thinking of Federal Subsistence Board members.

Federal Registration Permits

In some locations where there are concerns about the health of a wildlife population, a federal registration permitting system may be required. This allows managers to closely track the harvest of a wildlife population. Sometimes a harvest quota is set and when the number is reached, the hunt will be closed.

The Federal Subsistence regulations list which species and what areas have established federal registration permit hunts. This information can be found in the harvest limits section of the regulation booklet. When Federal registration permits are required, subsistence users are not required to have State permits, harvest tickets or tags.

Be aware that some Federal Registration permits issued for hunts in Denali are also valid on Bureau of Land Management (BLM) lands to the east of the park. Federal Registration permits for hunts occurring in Denali National Park may be obtained by contacting the subsistence manager in Denali Park at 683-2294 or 456-0595.

If the regulations indicate that a State registration permit is required, you may obtain your permit from the local Alaska Department of Fish and Game (ADF&G) office. Details about State registration permit hunts and applications can be found in the State Registration Permit Hunt Supplement; available at hunting license vendors and ADF&G offices.

Permits, harvest tickets and tags are important tools used by wildlife managers to monitor and protect wildlife populations. Subsistence users are required to follow harvest reporting rules.

Summary

Subsistence harvest of wildlife is allowed in the ANILCA additions to Denali National Park and Preserve by qualified subsistence users subject to Federal subsistence management regulations. These regulations are subject to change on an annual basis.

To be eligible to hunt in the ANILCA additions to Denali National Park you must meet all of the following requirements:

- ◆ be a rural Alaska resident,
- ◆ have a C&T use determination for the species and wildlife management unit where you intend to hunt or trap.
- ◆ permanently reside in Denali National Park and Preserve, in a Denali National Park resident zone community or hold a subsistence use permit (13.44) for Denali National Park
- ◆ possess a valid resident State of Alaska hunting license
- ◆ comply with Federal subsistence season and harvest limit regulations
- ◆ comply with any State or Federal permits, harvest tickets or tag requirements

AUTHORITY:

ANILCA Title VIII Subsistence Management and Use
ANILCA, Section 202 Additions to existing areas
50 CFR 100 Federal Subsistence Management Regulations
36 CFR 13 Subpart B Subsistence
36 CFR 13.63 Denali National Park and Preserve

SRC PROPOSED ACTION

Conduct a predator-prey relationship study in Denali.

ISSUE BACKGROUND:

- At the August, 2003 meeting, the SRC prepared a hunting plan recommendation (2003-1) to conduct a predator-prey relationship study to facilitate an understanding of natural and healthy populations and to provide guidance for Alaskan parks regarding the subsistence harvest of wildlife (see page 6).

CURRENT STATUS:

- The hunting plan recommendation was distributed for public comment with a deadline of February 10, 2004.

SRC PROPOSED ACTION

Proposed wolf buffer zone to close hunting and trapping on the north-eastern areas of the park and preserve.

ISSUE BACKGROUND:

- At the August, 2000 meeting, the SRC spent a great deal of time listening to presentations on various aspects of wolf management in and around Denali. This included proposals for a no hunting-trapping buffer zone on adjacent State lands along the east and northeast edges of the park and a proposed subsistence wolf buffer zone within the ANILCA park additions east of the Toklat River and north of the former Mount McKinley National Park boundary.
- The SRC considered the proposals and decided not to support either request for the following reasons: 1) The SRC felt they were not in a position to dictate actions that might be taken on state or private lands in the area, 2) the buffer zone would have a minimal effect in protecting wolves, 3) efforts to protect one or two packs for the benefit of visitors does not fit the “natural and healthy” guidelines of ANILCA, and 4) the SRC is concerned that the precedent of buffer zones might be extended to other animals important to subsistence users in the future. The SRCs full justification for denying the two proposals is contained in a letter dated August 19, 2000, to Board of Game Chair Lori Quakenbush (see page 8 of this chapter).

CURRENT STATUS:

- At the Alaska Board of Game’s fall 2000 meeting the Board created a wolf buffer zone of about 20,000 acres on State lands near Denali National Park and Preserve closing those lands to the hunting and trapping of wolves through the year 2002.
- A proposal to close subsistence hunting and trapping of wolves within Denali National Park east of the Toklat River was submitted to the Federal Subsistence Board for the 2001-2002 regulatory cycle.

NPS PROPOSED ACTION

Define the term "natural and healthy".

ISSUE BACKGROUND:

- Long term protection of fish and wildlife populations is necessary to ensure the continuation of the opportunity for a subsistence way of life. Consequently, subsistence uses on public lands must be conducted in a manner consistent with the conservation of natural and healthy populations in Parks as mandated by ANILCA.
- The term "conservation of healthy populations of fish and wildlife" is defined in Federal Subsistence regulations but the term "natural" is not included as part of the definition. Congress, in writing ANILCA, clearly intended for parks to be managed differently, with respect to fish and wildlife resources, from other Federal lands.
- In addition to the requirements of ANILCA, National Parks must be managed for the purposes mandated by the NPS Organic Act of 1916 and the 1978 amendment to the National Park Act.

CURRENT STATUS:

- A team of NPS natural resource managers from across the State have been asked to work on a definition of "natural and healthy". Their definition will be presented to the SRC for review when it is completed.

AUTHORITY:

ANILCA Section 101(b) and (c) Purposes

ANILCA Section 815 Limitations, savings clause (natural and healthy)

ANILCA Section 816(b) Closure to subsistence uses

16 USC 1 NPS Organic Act

SRC COMPLETED ACTION

Align wolf hunting season dates with the trapping season dates in Denali Park lands.

CHRONOLOGY:

- In 1996, the SRC submitted proposal #31 to the Federal Subsistence Board to align the wolf hunting season dates within Denali National Park in GMU 20C with the current trapping season dates. The later season would only allow wolf to be harvested when their pelts are in good condition.
- The Eastern Interior, Western Interior and Southcentral Regional Advisory Councils did not support proposal 31 because they felt there was no biological reason for reducing the opportunity, and that it would be confusing to subsistence users not having consistent season dates within this subunit.

RESOLUTION:

- The Federal Subsistence Board followed the Regional Advisory Council's recommendation and did not pass proposal 31.

SRC COMPLETED ACTION

Establish an additional fall hunting season for subsistence users in Unit 20(C).

CHRONOLOGY:

- The SRC prepared a hunting plan recommendation in 1993 requesting that a second season for hunting antlered bull moose on park lands in GMU 20(C) be established from November 15 to December 15, with a bag limit of one bull moose. They also recommended the restriction on taking white phased or albino moose be retained (see letter on pages 12-13).
- In response, the Secretary (January 1994) directed NPS to investigate the biological ramifications of the additional hunting season on the moose population and to determine whether moose were customarily and traditionally hunted in the late fall. The Secretary further directed the Federal Subsistence Board to take positive action on this proposal if the NPS analysis concluded that a natural and healthy population of moose could be maintained with the additional season (letter on page 13).
- The State's response (January 1994) contained additional requests for NPS data and analysis before they would make a decision on the recommendation. The State asked for: (1) moose survey data, (2) data on current harvest levels, (3) estimates of harvestable surplus, and (4) projected future harvest levels if the recommendation is adopted (letter on page 14).
- In a July 8, 1994 memo to Secretary of Interior Babbitt and "To Whom it May Concern" the SRC changed the boundary of the hunt area (letters on page 15).
- Proposal #59 (1994) was developed to address this regulation change.

RESOLUTION:

- The additional hunting season was established by the Federal Subsistence Board effective as of the 1994-95 regulatory year.

AUTHORITY:

50 CFR 100

SRC COMPLETED ACTION

Establish a fall federal subsistence waterfowl hunt and allow spring and summer harvest of migratory birds and their eggs.

CHRONOLOGY:

- In April 1994 the Wrangell-St. Elias National Park SRC submitted a hunting plan recommendation requesting a fall subsistence harvest of waterfowl. They also requested the Secretary's assistance in amending the Migratory Bird Treaty Act to protect the subsistence harvest of bird eggs.
- The Secretary's response (September 12, 1994) said that a fall hunting season was in conflict with existing Federal subsistence management regulations that exclude migratory bird harvest for subsistence. Opening a fall season would require promulgation of new regulations. He said that he was willing to consider the matter further upon receipt of a formal hunting plan recommendation.
- In December 1996, the Wrangell-St. Elias SRC submitted a hunting plan recommendation requesting a fall subsistence season and bag limit for waterfowl consistent with the State season and harvest limit. They also requested a general exception to the spring and summer harvesting of migratory birds and their eggs for subsistence purposes for qualified subsistence users.
- The Eastern Interior supported the Commission's recommendation in a letter dated March 1996.
- On November 18, 1998, Chairman Vale submitted a letter to all SRC chairs requesting their comments and position on waterfowl hunting and egg collecting on park lands. The Denali Commission responded with a letter dated March 4, 1999, indicating they did not have a particular concern with migratory waterfowl hunting or egg collecting on Denali park lands. However, they do support efforts by the Wrangell-St. Elias SRC to ensure that traditional hunting and harvesting practices are protected (page 18).
- In May 1999, the Gates of the Arctic SRC commented on this issue. They stated that waterfowl are harvested in Gates of the Arctic National Park by subsistence users and feel this harvest should be allowed to continue. They questioned the solicitor's opinion and asked to have his findings on paper to review.

RESOLUTION:

- In May 2000 NPS responded to the Wrangell-St. Elias SRC on the migratory bird issue. Their response indicated that there is nothing in ANILCA that specifically prohibits the taking of migratory birds for subsistence purposes within National Parks or Monuments

where subsistence uses are otherwise allowed. Although the Migratory Bird Treaty Act does not provide a preference for the taking of migratory birds, the traditional harvest of migratory birds may be permitted in parks and monuments as long as such harvest is consistent with the MBTA. Only local rural residents are allowed to harvest migratory birds within parks and monuments (letter on page 18-19).

AUTHORITY:

Migratory Bird Treaty Act

T RAPPING

Trapping and bartering of fur animals has long been a customary and traditional activity for the Denali area. Trapping continues to be one of the predominant subsistence activities occurring on park and preserve lands. Winter travel in pursuit of furbearers can be extensive and in the northern and western regions supported by a network of winter trails, shelters and cabins which are accessed by the use of dog teams or snowmachines.

Local social norms and traditions of trapping differ greatly from culture to culture and from region to region within Denali. In the northern and western regions of Denali, local residents of communities have evolved and continue to maintain strong informal norms associated with the use of trapping areas and "ownership" of cabins on public lands. In some communities, families or individuals are known to utilize large trapping areas with support trails and cabins for decades.

Thus, local community norms encourage the sustainable harvest of fur in these areas and help provide for the orderly and peaceful relationships between members of the community who harvest furs. These social norms and traditions, which serve to allocate use territories, are integral in the conservation of fur animals and management of social conflict. They are not as evident and in some cases no longer exist in the eastern and southern regions of the park and preserve.



Photo courtesy of Paul Starr

Subsistence trapping of wildlife is allowed in the ANILCA additions to Denali National Park and Preserve by qualified subsistence users subject to Federal subsistence management regulations. Sport and general trapping is allowed in the preserve additions to Denali subject to State of Alaska general trapping regulations. ANILCA provides a preference for local rural residents over other consumptive users should a shortage of subsistence resources occur and allocation of harvest becomes necessary. This is particularly important for National Preserves where State sport hunting and trapping is allowed in addition to Federal subsistence hunting and trapping.

To be eligible to trap for subsistence purposes in the ANILCA additions to Denali National Park an individual must live in a resident zone or have been issued a subsistence use permit (13.44) and have a positive customary and traditional use determination for the area and species they intend to trap. The trapper must also trap within the confines of the published season and bag limit listed in the Federal Subsistence Management Regulations booklet for the area in which they are trapping and comply with all other requirements and restrictions set forth in that document.

Customary and traditional use determinations (C&T) define which communities or areas have customarily and traditionally taken a wildlife population. To trap in a particular area or for a particular species an individual must have a "positive" C&T determination. These determinations are listed in the Federal Subsistence Management Regulations booklet by wildlife management unit.

Federal Subsistence Board

The Federal Subsistence Board makes C&T determinations, and determines when seasons open and close, how many animals may be harvested, the method and means by which an animal may be taken, etc. The Board makes changes to the regulations on an annual basis according to a regular schedule. The deadlines vary somewhat from year to year but the general pattern remains consistent:

Late October/Early November	Deadline for submission of proposals to change regulations
February through March	Each of the 10 Regional Advisory Councils meet to consider proposals received and any comments from the public on them. The Councils then prepare recommendations to the Federal Subsistence Board on what actions they feel should be taken on each proposal affecting their area.
May	The Federal Subsistence Board meets and

makes decisions on each proposal after consultation with the SRCs, Regional Advisory Councils and consideration of other public input.

July 1

New regulations go into effect.

The Role of the SRC

The SRC plays an important role in this decision making process. The Commission may develop season and bag limit, method and means or C&T proposals and submit them to the Federal Subsistence Board during the annual regulatory change process. The Regional Advisory Councils rely on the SRCs input on all regulatory change proposals that affect Denali National Park and Preserve. Likewise, SRC input on proposals may influence the NPS position on proposals as well as the thinking of Federal Subsistence Board members from other agencies that vote on each proposal.

Use of Aircraft for Trapping

Aircraft may be used to access the preserve for the taking of wildlife under both State and Federal regulations. However, airplanes are not permitted for access to the ANILCA park additions for subsistence harvesting of wildlife. A qualified subsistence user may use an aircraft in the park to carry supplies to a trapping base camp or cabin, but may not utilize the aircraft for working the trapline, setting traps, checking traps, harvesting furbearers or transporting furbearers from park lands.

NPS Definition of Trap

NPS regulations define the term “trap” to mean a snare, trap, mesh or other implement designed to entrap animals other than fish. Under the NPS definition of trap, a firearm is not an approved method of taking free roaming furbearers under the authority of a trapping license. The NPS does acknowledge the long-standing practice of doing so under State regulations, but has concern for high trapping harvest limits for many furbearers.

Customary Trade

NPS regulations recognize customary trade to be the exchange of furs for cash and such other activities as may be designated for a specific park area in 36 CFR Subpart C. In December of 1998 in response to suggestions made by the SRC Chairs and the Western Interior Regional Advisory Council, the NPS clarified the interpretation of customary trade regulations for park units by stating that the following activities are permitted under NPS subsistence regulations:

- The making and selling of handicraft articles out of non-edible byproducts of fish and wildlife resources taken for personal or family consumption, (in all parks, monuments, and preserves where subsistence uses are permitted) 36 CFR 13.41 and 36 CFR 13.42.
- The exchange of furs for cash (as customary trade), (in all parks, monuments, and preserves where subsistence uses are permitted) 36 CFR 13.41, 36 CFR 13.42, and 36 CFR 13.41(3).
- The selling of handicraft articles made from plant material taken by local rural residents of the park area (as customary trade)(only in Kokuk Valley National Park and Gates of the Arctic National Preserve which contains the Kobuk River and its tributaries) 36 CFR 13.46(a)(3) and 36 CFR 13.69(a)(2).

Commercial Operations

On park and preserve lands a person may not engage in trapping activities as an employee of another person. The legislative history clearly indicates that Congress did not intend the park and preserve lands to be a place where more extensive forms of commercial trapping would be allowed and trapping itself becomes a business with employees paid to support the trapping operation.

Trail Maintenance

In areas where there have been long established, traditionally used winter trapline trails, a subsistence user may maintain use of their winter trails by periodic brushing.

Trapping Cabins

For more detailed information on trapping cabins and shelters see Chapter 10, “Subsistence Cabins and Shelters”.

Summary

Subsistence harvest of furbearers is allowed in the ANILCA additions to Denali National Park and in Denali National Preserve by qualified subsistence users subject to Federal subsistence management regulations. To be eligible to trap in the ANILCA additions to Denali National Park all of the following requirements must be met:

- ♦ be a rural Alaska resident

- ◆ have a customary and traditional use determination for the species trapped and the area you are trapping in
- ◆ permanently reside in Denali National Park and Preserve, in a Denali National Park resident zone community or hold a subsistence eligibility permit (13.44) for Denali National Park
- ◆ possess a valid resident State of Alaska license for hunting and/or trapping
- ◆ comply with Federal subsistence season and harvest limit regulations
- ◆ comply with any State or Federal permits, harvest tickets or tag requirements

AUTHORITY:

50 CFR 100 Federal Subsistence Management Regulations
36 CFR 13 Subpart B Subsistence
36 CFR 13.63 Denali National Park and Preserve

NPS PROPOSED ACTION

Clarify the NPS definition of “trap” in 36 CFR regarding the use of firearms

ISSUE BACKGROUND:

- The NPS prepared a draft rule in 1994 recommending the clarification of the existing regulation at 36 CFR 1.4 and 13(u). The intent was to eliminate confusion about the use of firearms under a trapping license. The draft regulation was circulated widely across the State for comment prior to publication.
- In a June 16, 1995 memo from the Denali SRC to Regional Director Barbee of NPS, the SRC expressed their opposition to the NPS trapping clarification prohibiting the taking of free ranging furbearers with a rifle (meeting minutes of that date are in Appendix C, page 5 and comments on NPS subsistence program, Appendix B, page 4). The SRC recommended the definition be changed to include the taking of free ranging furbearers by any traditional and customary means, including a firearm or bow and arrow (letter on page 8).
- In 1997, the NPS responded to comments received on the use of firearms as an approved method of taking free-roaming furbearers under the authority of a trapping license as a long-standing customary and traditional use in Alaska. The NPS position on this issue was not changed, but additional language was added to the “NPS Subsistence Program” document indicating that the NPS acknowledges the long-standing practice of allowing the use under state regulations (see Appendix B).
- In August 1998, the NPS responded to the Western Interior Regional Advisory Councils concern about the issue of trapping and customary trade. NPS did not support the Councils suggestion to allow the Federal Subsistence Management Regulations to supercede NPS regulations on this issue. The Deputy Director did say a long term solution to this issue was desirable.

The Council also said that NPS regulations on customary trade stated that only furs could be exchanged for cash. The Deputy Director did not agree with this statement but did promise to revise the language in the NPS Subsistence Management Program report to help clarify the regulation (see pages 8-9).

- At their meeting in October 1998, the SRC chairs made a recommendation that NPS continue to work on the issue of trapping regulations and the prohibition on the use of a firearm under a trapping license.

NPS responded in May 1999 (letter on pages 8-10 in Chapter 1: SRC Functions) to the SRC Chairs’ recommendation. This has been a difficult issue for the NPS. While the regulations suggest that use of a firearm is not permitted under a trapping license on NPS

lands, NPS acknowledges that there is a longstanding practice of doing so under State regulations. NPS will continue to work with the SRCs, Regional Advisory Councils and others to evaluate or further define traditional practices for use of firearms as a method of trapping. It may be difficult at this time to attempt to change the regulations.

- During the October 1999 meeting of SRC chairs in Anchorage, the Chairs recommended that NPS change its regulations in 36 CFR to allow subsistence users with a trapping license to take free ranging furbearers with a firearm. NPS responded to this recommendation in a February 4, 2000 letter indicating that a change in the regulations in the near future was doubtful. NPS believes that an attempt to change the regulations would be unsuccessful and may lead to unexpected consequences. Environmental groups will likely oppose any action they feel is a “relaxation” of the regulations (see letter on page 3, Appendix B).
- In a February 14, 2000 letter to NPS, the Denali SRC reiterated their position regarding trappers' use of firearms to take free roaming furbearers as a traditional practice under a trapping license. The Commission was unanimously in favor of this position. (See letter on page 5 of Appendix B).

CURRENT STATUS:

- The NPS will retain the existing regulation concerning the allowable methods for trapping. NPS has taken no action on the draft rule intended to clarify NPS definition of a trap.
- NPS has acknowledged the long-standing practice of allowing the taking of free-roaming furbearers with a firearm under the authority of a trapping license. NPS will work with the SRCs, the Regional Advisory Councils and others to evaluate or further define traditional practices for use of firearms as a method of trapping.

AUTHORITY:

- 36 CFR 1.4 Definition of “trap”
- 36 CFR 13(u) Definition of “trap”

HARVEST OF TIMBER AND PLANT MATERIALS

Non-commercial cutting of live standing timber for appropriate subsistence uses, such as firewood or house logs (greater than 3" diameter at ground height) are allowed on federal public lands. A permit is required and may be obtained from the Superintendent (see Denali National Park and Preserve policy on subsistence use of timber resources on page 2).

Harvest of Live Timber

House log permits: Live timber may be harvested for construction of a primary permanent residence or subsistence use cabin. Timber harvested or structures built under a subsistence permit may not be used for commercial purposes. Logs may only be harvested from Federal public lands within the ANILCA additions to Denali National Park and Preserve. Live timber harvest permits are issued by the Superintendent.

Firewood permits: Firewood permits may be issued to qualified subsistence users for the non-commercial cutting of *live standing timber* for use as firewood. Permits are only issued if there is no adequate and reasonably available supply of dead or down wood. A permit allows harvest of live standing timber greater than 3 inches in diameter at ground height. The harvest of live timber for firewood will be limited to what is reasonably required for heating, cooking, etc. at the applicant's primary place of residence or subsistence use cabin.

Harvest of Dead or Down Logs

Firewood: Collection and use of *dead or down wood*, from Federal public lands within the ANILCA additions to the park and preserve, for personal use is allowed. The wood may be used in campfires, home stoves and fireplaces for cooking and warming. No permit is required for this activity.

Permits are required for any use of a *chain saw* on Federal public lands in Denali National Park and Preserve regardless of the type of use.

Gathering of fruit, berries, mushrooms and other plant materials for subsistence uses is allowed in the ANILCA additions to the Park and in the Preserve. No permit is required.

AUTHORITY:

- 36 CFR 13.49 Subsistence use of timber and plant material
- 36 CFR 13.20 Preservation of natural features
- 36 CFR 2.12 Audio Disturbances

SRC PROPOSED ACTION

Include the practice of making, selling or trading handicraft items made from plant materials by subsistence users as an authorized use under customary trade.

ISSUE BACKGROUND:

- The SRC passed a motion stating that there has been a customary and traditional practice, by subsistence users at Denali National Park and Preserve, of gathering, making, selling or trading handicraft items from natural materials such as non-edible animal parts, minerals and vegetative materials.
- The SRC believes this customary and traditional practice should be recognized and authorized as a customary trade practice in NPS regulations for Denali National Park and Preserve.
- In January, 1998 the Western Interior Regional Advisory Council wrote to NPS Regional Director Robert Barbee regarding the issue of customary trade. Their concern was that NPS regulations governing customary trade state that only furs may be exchanged for cash. The Council saw this as a direct conflict with the definition of subsistence uses in Section 803 of ANILCA. They requested that NPS regulations, or their interpretation, be corrected to allow for the sale of handicrafts made from non-edible byproducts of fish and wildlife resources in conformance with ANILCA (see letter on page 5).
- NPS responded to Western Interior Regional Council comments on customary trade saying that what the Council requested is and always has been allowed under ANILCA and NPS regulations. NPS promised to add language to clarify the issue in the next release of the NPS Subsistence Management Report (see letter on page 6-7). The report referred to is in Appendix B.
- At the joint SRC chairs/NPS meeting in Anchorage in October 1998, one of the items discussed was the issue of “customary trade” and the “making and selling of handicraft articles out of non-edible byproducts of fish and wildlife resources taken for personal or family consumption.” As explained in the August 24, 1998 letter to the Western Interior Regional Advisory Council, both these activities are permitted under NPS regulations.

The NPS regulation for customary trade states that only furs may be exchanged for cash or other non-edible by-products of fish and wildlife resources taken for personal or family consumption. There are currently two exceptions to this: one in Gates of the Arctic National Preserve and one in Kobuk Valley National Park, which permit the sale of handicrafts made from plant material. To authorize the sale of handicrafts made from materials other than furs, under the NPS definition of customary trade, a change to NPS “Special Regulations” under 36 CFR Subpart C §13.63 would need to be made (see letter on page 7).

- At the October 1999 meeting of the SRC chairs a recommendation was made that each

SRC should review the NPS customary trade regulations to ensure that local customary trade practices are recognized and authorized under the current NPS regulations. They further recommended that NPS customary trade regulations be consistent with Federal Subsistence Board regulations.

- NPS responded to the SRC chairs recommendation in February 2000 agreeing that customary trade regulations should to the extent possible address local customary practices. NPS asked that each SRC review the customary trade regulations and provide comments and specific information on local practices.
- The Denali SRC made a statement regarding customary trade during the February 14, 2000 meeting. The SRC reiterated their position of August 22, 1996 (see appendix B, pages 1-2). The Commission unanimously passed a motion stating, “The SRC supports the customary trade of any handicraft items made by subsistence individuals who are gathering, making, and selling crafts made from natural materials such as animal, mineral, or vegetation. The Commission believes the sale of these handicrafts by subsistence individuals should not be illegal since it has been a customary and traditional practice to make, sell, or trade these handicrafts made from natural resources.” The Commission members compiled a list of some of the resources and materials used in both past and present for items customarily traded. The list is contained in their letter located in Appendix B, page 5.

CURRENT STATUS:

- A review of NPS regulations pertaining to customary trade may need to be made in light of changes made by Federal Subsistence Fisheries Regulations providing for the non-commercial exchange of subsistence foods through customary trade.

AUTHORITY:

36 CFR 13.41 Applicability

36 CFR 13.42 Definitions

36 CFR 13.63 Denali National Park and Preserve

SUBSISTENCE CABINS AND SHELTERS

Trapping continues to be one of the predominant subsistence activities occurring on park and preserve lands. Winter travel in pursuit of furbearers can be extensive and in the northern and western regions is supported by a network of winter trails, shelters and cabins which are accessed by the use of dog teams and snowmachines. In some communities, families or individuals are known to utilize large trapping areas with support trails and cabins for decades.



Photo by Julie Collins.

Use of cabins for subsistence purposes within Denali National Park and Preserve is allowed by permit from the Superintendent. Use of cabins for subsistence purposes require that a person be a local rural resident who is eligible for subsistence hunting in the Park or Preserve where the structure is located. A permit is required for use and occupancy of a permanent or temporary cabin or other structure in the Park or Preserve.

The Superintendent may designate cabins or other structures that may be shared by local rural residents. Occupancy of structures specifically designated for shared use does not require a permit.

The Superintendent may permit the construction of a new cabin or other new structure for subsistence purposes only if a tent or other temporary facility would not adequately and reasonably accommodate the applicant's subsistence uses without significant hardship and if no other type of cabin or structure would adequately and reasonably accommodate the applicant's subsistence uses. The decision is based on impacts on the values and purposes for which the park was established. The Superintendent must provide for shared use of new cabins by other local rural subsistence users as well as the permittee.

In July 1999 a subsistence cabin study was completed documenting the historical and contemporary use of cabins and structures associated with subsistence use activities in the north additions to Denali National Park and Preserve (see section on Acquisition of Resource and User Data, Resource Management Plan project statement number S-100.006). The park has evaluated and authorized three traditional subsistence trapline cabin re-constructions. A list of environmental assessments and ANILCA, Section 810 evaluations for the cabin re-constructions can be found under Appendix H.

AUTHORITY:

36 CFR 13.17 Cabins and other structures

SRC PROPOSED ACTION

Revise 36 CFR 13.17 “cabin” regulations.

ISSUE BACKGROUND:

- In comments to the “Draft Review of Subsistence Law and NPS Regulations” the SRC expressed a desire to revise several sections of the 36 CFR 13 cabin regulations that were either too restrictive or were inadequate to cover existing needs of subsistence users in the Park (SRC comments, page 4, Appendix B). The SRC felt the regulations needed to distinguish between “new” and “replacement” cabins and the latter should not be subject to the strict requirements that exist for new cabins. They felt that replacement cabins – built to replace one no longer useable – should be permitted anywhere along traditional trapline trails, provided the total number of cabins on any of these traditional traplines does not increase. It should be recognized that cabins do need periodic replacement due to rotting logs and roofs, stove fires, undercutting by rivers, forest fires, or changes in trail use, etc. Historically cabins are not always built on the same foundation for the same reasons, and also because vegetative resources such as firewood, which gradually become reduced in the immediate area over time, need time for regeneration.
- Secondly the SRC recommended changing the regulation requiring that all cabins be shared use cabins. The SRC said it is not traditional to have ‘shared use’ of a new or replacement cabin by all subsistence users, although exclusive use is not required in most cases. Mandatory designation of all new cabins as shared use cabins may not be appropriate (see SRC comments, page 4, Appendix B)

CURRENT STATUS:

- The NPS position on cabins and shelters was articulated in the “National Park Service Subsistence Management Program” document found in Appendix B (page 24). The NPS response to the SRCs comment on differentiation between new and replacement cabins was:

The construction of any cabin should undergo the same thorough scrutiny, however, the fact that a proposed cabin is to replace a cabin no longer usable may be a mitigating factor in the review.

The NPS response to the SRC comment on shared used of cabins was as follows:

NPS cabin regulations and the preamble to those regulations are clear that new cabins must be on a shared use basis. The preamble states that “All new cabins authorized under this subsection will be used on a shared rather than exclusive use basis.”

The NPS responded further to comments on the “Draft Review” paper, saying that, where appropriate, parks should develop specific cabin management guidelines as part of their subsistence management plans. Such guidelines would be subject to review and comment by the SRCs, advisory groups, the State and the public prior to implementation. The Parks Resource Management Plan calls for development of a Cabin Management Plan for Denali after completion of the subsistence cabins and shelters study for the north additions to Denali National Park and Preserve.

AUTHORITY:

36 CFR 13.17 Cabins and other structures

ACQUISITION OF RESOURCE AND USER DATA

Subsistence Resource Data

Each National Park is required to prepare a Resource Management Plan (RMP) identifying a program for monitoring, inventory, research, mitigation and enforcement activities required to protect the park's natural resources and natural and cultural processes, and to achieve the park's purposes and objectives. Denali's RMP includes sections on natural resources, cultural resources, and subsistence resources. The plan is updated periodically whenever natural resource objectives for the park are changed or when studies result in new knowledge which may influence objectives and management needs.



The Denali National Park and Preserve subsistence section of the RMP contains several project statements of interest to subsistence users:

- 1) Subsistence Management Program (pages 4-9);
- 2) Customary and Traditional Uses (pages 10-13);
- 3) Subsistence Access (pages 14-16);
- 4) Subsistence Trapline Management (pages 17-20), and
- 5) Subsistence Hunting Programs (pages 21-24).

Each project statement contains a description of the program or issue in terms of a “problem statement”, “current management actions being taken” and “recommendations for future actions” that may be required to resolve the problem or reach the objective. Components of the SRC’s hunting plan that require an action be taken by the park are described in the RMP as well.

The actions described in the project statements listed above will be completed as staff and funding allow. However, in the interim there is a need to acquire current resource and user information necessary for day-to-day management of subsistence activities. Additional subsistence-related material may be found in the natural resource and cultural resource sections of the RMP.

User Data

Reported harvest information for large animals, furbearers, waterfowl and fish can be found through the Alaska Department of Fish and Game harvest records, sealing documents, and registration permits. Most of this harvest information is lumped together for the entire Game Management Unit or subunits irrespective of park or preserve boundaries, making review or use of the data very difficult. Much of the older harvest data has not been digitized or entered into computer databases. With such a range and variety of subsistence resource information, which is often gathered in the short term and not related to other works, it is difficult to formulate the information into a long term consistent database for subsistence management. Particularly noticeable is a lack of information regarding subsistence use for the southern additions to Denali National Park and Preserve.

Community Profile Studies

Several of Denali’s resident zone communities had subsistence community profile studies done by the State Division of Subsistence in the early 1980s but the data is not complete. No community profile study has been completed for the community of Lake Minchumina. Most of these profile studies are fifteen to seventeen years old and need to be updated with current information. The research design and information gathered need to be modified from these earlier studies in order to provide the type of information needed to guide current management issues.

NPS PROPOSED ACTION

Gather and document past and current information on subsistence uses and resources in Denali National Park and Preserve.

ISSUE BACKGROUND:

- ANILCA states that subsistence use by local residents shall be permitted in the park and preserve, where such uses are traditional. A review of existing information needs to be initiated that identifies both contemporary and historical traditional subsistence uses and use areas for each resident zone community.
- The Denali RMP identifies three areas where information required for the management of subsistence is either outdated or non-existent. Subsistence community-use profiles and traditional-use areas are two of the priority needs. Some subsistence use information is available from studies conducted by the State in the early 1980s but the data is dated and sometimes incomplete. No community profile studies have been conducted for Lake Minchumina.
- Park staff will make a coordinated effort to obtain population monitoring and harvest data for the Denali region from the ADF&G and US Fish and Wildlife Service databases. Some information has already been compiled. Harvest data for large mammals and wolf have been summarized and appear in this chapter beginning on page 25.
- Park staff and the SRC will work with local hunters and trappers to establish community harvest monitoring programs for Denali's resident zones. Park staff will work with the ADF&G, US Fish and Wildlife Service, the SRC, and local subsistence users to develop harvest reports for wildlife that are more specific in identifying harvest that occurs on park and preserve lands.
- The SRC and Regional Advisory Councils will be consulted prior to initiation of any of the studies identified above. NPS is committed to hiring qualified personnel for these studies, with high professional and ethical standards and sensitivity to local subsistence issues and users' needs.
- Park staff met with community members to recruit harvest monitoring personnel in Cantwell, Lake Minchumina, Nikolai and Telida.

CURRENT STATUS:

- In 2000, the NPS entered into a cooperative agreement with the Alaska Department of Fish and Game Subsistence Division to conduct subsistence community profile updates for Cantwell, Lake Minchumina, Telida and Nikolai.

CUSTOMARY AND TRADITIONAL USE

DETERMINATIONS (C&T)

ANILCA Section 803 defines the term “subsistence uses” to 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; and for barter, or sharing for personal or family consumption; and for customary trade”.

NPS Determinations

Where Traditional. The enabling legislation for the ANILCA additions to Denali National Park and Preserve states that subsistence uses are allowed in the Park where such uses are traditional in accordance with the provisions in Title VIII. The NPS has not defined traditional use zones for Denali but other actions have served to help define traditional use areas, notably the C&T use determinations made over the years by the State of Alaska and later by the Federal Subsistence Board.

While C&T use determinations provide some guidance in the determination of traditional use zones they are specific to individual fish and wildlife species. The NPS believes that, in defining traditional use zones, it must look further to the full range of subsistence uses which may include but not be limited to: use of plants (berries and timber), subsistence cabins, shelters and trails, cultural and religious sites, etc.

The NPS also believes that it must work more closely with subsistence advisory groups in this process. Neither C&T determinations nor subsistence resource commissions and regional advisory councils were in place in 1981 when the NPS regulations were adopted. The preamble to the NPS regulations state that, “local input...is essential to developing the ‘subsistence hunting zones’ for the five park areas” and that “local committees, regional councils, and park and monument commissions should facilitate such local input into these designations.” Public input, particularly from subsistence advisory groups, will be sought in this process.

Title 36, Part 13, Code of Federal Regulations, section 13.41 gives the NPS the option of designating areas “where such uses are traditional” as a management tool, if necessary, but it remains an option and not a fundamental directive of the law or the regulation itself.

NPS Eligibility. To be eligible to hunt, trap or fish for subsistence purposes in the ANILCA additions to Denali National Park an individual must live in one of Denali’s resident zone

communities or have been issued a subsistence use permit (13.44). Denali's four resident zone communities, identified and designated through NPS rulemaking in 1981, and individual subsistence use permit (13.44) are issued on the basis of customary and traditional use of park lands for subsistence. In the case of "resident zones" the NPS applies customary and traditional use criteria to "significant concentrations" of people who have used park resources. In the case of subsistence use permits for those individuals who live outside of a resident zone community, the Superintendent applies the C&T use criteria to an individual's personal or family use of park resources.

Customary Trade. NPS regulations recognize customary trade to be the exchange of furs for cash and such other activities as may be designated for a specific park area in 36 CFR Subpart C. In December of 1998 in response to suggestions made by the SRC Chairs and the Western Interior Regional Advisory Council, the NPS clarified the interpretation of customary trade regulations for park units by stating that the following activities are permitted under NPS subsistence regulations:

- The making and selling of handicraft articles out of non-edible byproducts of fish and wildlife resources taken for personal or family consumption, (in all parks, monuments, and preserves where subsistence uses are permitted) 36 CFR 13.41 and 13.42.
- The exchange of furs for cash (as customary trade), (in all parks, monuments, and preserves where subsistence uses are permitted) 36 CFR 13.41, 13.42, and 13.41(3).
- The selling of handicraft articles made from plant material taken by local rural residents of the park area (as customary trade)(only in Kokuk Valley National Park and Gates of the Arctic National Preserve which contains the Kobuk River and its tributaries) 36 CFR 13.46(a)(3) and 13.69(a)(2).

Federal Subsistence Board Determinations

Community or Area Based C&T: Customary and traditional use determinations, made by the Federal Subsistence Board (Board) identify which wildlife species or fish stocks have been customarily and traditionally taken as a subsistence resource and which communities or areas are eligible to harvest them. To hunt or fish in a particular area or for a particular species an individual must have a "positive" C&T determination. These determinations are listed in the Federal Subsistence Management Regulations booklet by game management unit and fishery management area.

The *Federal Subsistence Board* determines what the C&T determination will be for a community or area. Although C&T determinations are intended to be made and retained for a long time period, the Board will accept proposals for changes to the determinations on an annual basis. The deadlines for submission of proposals and review by the Federal Subsistence Board vary somewhat from year to year but the general pattern remains consistent:

Late October/Early November	Deadline for submission of proposals to change regulations
February through March	Each of the 10 Regional Advisory Councils meet to consider proposals received and public comments. At these meetings the Councils prepare recommendations to the Board on each proposal affecting their area.
May	The Federal Subsistence Board meets and makes decisions on each proposal based on SRC, Regional Advisory Council and other public input.
July 1	New regulations go into effect.

The SRC plays an important role in this decision making process. The Commission may develop C&T proposals and submit them to the Federal Subsistence Board during the annual regulatory change process. The Regional Advisory Councils rely on the SRC's input on all regulatory change proposals that affect Denali National Park and Preserve. Likewise, SRC input on proposals may influence the NPS position on proposals as well as the thinking of Federal Subsistence Board members from other agencies that vote on each proposal.

C&T determinations affecting harvest of wildlife in Denali National Park are summarized on pages 5-6.

Individual C&T determinations: Federal Subsistence Management regulations provide a mechanism for the Federal Subsistence Board to make individual C&T determinations for NPS lands. Individuals interested in seeking such a determination must apply directly to the Federal Subsistence Board. A March 1999 Solicitors opinion (pages 25-26) affirms the Federal Subsistence Boards' authority to make customary and traditional use determinations on an individual basis for parks. By Federal Subsistence Board policy, these individual determinations apply only to National Park and Monument lands (page 26-27). The US Fish and Wildlife Service and the local NPS Superintendent will maintain the list of individuals having customary and traditional use on National Parks and Monuments.

ANILCA Section 804 Eligibility: When it is necessary to limit the harvest of a fish or wildlife population in order to protect the viability of the population, criteria identified in Section 804 of ANILCA are used to differentiate among qualified subsistence users. Those 3 criteria are:

- 1) customary and direct dependence upon the populations as the mainstay of livelihood;
- 2) local residency, and
- 3) the availability of alternative resources.

AUTHORITY:

50 CFR 100 Subpart B Section 16(a): Individual C&T determinations for NPS managed lands

50 CFR 100 Subpart B Section 16 C&T use determination process

50 CFR 100 Subpart C Section 24 C&T use determinations

SRC PROPOSED ACTION

Designate the entire ANILCA park and preserve additions as a traditional use area.

ISSUE BACKGROUND:

- In its comments on the “Draft Review of Subsistence Laws and Regulations”, the Denali SRC made a statement about identifying traditional use areas in Denali. Their comment read, “The Denali SRC’s opinion is that historically the whole park was a traditional subsistence use area, though we recognize that the original Mt. McKinley National Park has been excluded consumptive use of any kind since its creation.” Congress excluded subsistence activities from the original Mt. McKinley Park including the highest parts of the Alaska Range and other large areas representing various habitats which are historically and archeologically known to have been used by subsistence users. The remaining portions of Denali National Park and Preserve lands have all been used by local rural people for subsistence. This subsistence use shifts geographically with time, making formal designations difficult to make and to maintain; consumptive use can be adequately controlled by seasons, bag limits, and other NPS regulations as needed. If formal boundaries are needed in the future, they can be established at that time, and the boundaries should be made on a historical basis, not on a modern/contemporary or archeological basis.
- On-going research studies for Denali National Park and Preserve such as the Native place names mapping project, ethnographic overview and assessment, village history reports and the traditional use of subsistence cabins and traplines study will further document traditional use areas and practices.
- Past research specific to Denali such as the “Subsistence Use in the North Additions to Denali National Park and Preserve”, an archeological overview and assessment, history of Denali, Kantishna Native place names, and “Subsistence Use in the Proposed North Additions to Mt. McKinley National Park” provide additional documentation of traditional use areas and practices.
- Administrative histories and early ranger reports document the displacement of subsistence users from areas within the former Mt. McKinley National Park.
- Administrative records and research studies indicate that all of the ANILCA additions to the Park and Preserve were traditional subsistence use areas. Archeological and historical studies and administrative reports also indicate that certain areas within the original Mt. McKinley National Park were also significant subsistence use areas both archeologically and historically.

CURRENT STATUS:

- Existing and on-going research studies and administrative reports support the SRC's recommendation that all of the ANILCA Park and Preserve additions were traditionally used by subsistence users.
- Title 36, Part 13, Code of Federal Regulations, section 13.41 gives the NPS the option of designating areas "where such uses are traditional" as a management tool, if necessary, but it remains an option, not a fundamental directive of the law or the regulation itself.
- Denali National Park is not intending to make a traditional use area determination at this time.

SRC PROPOSED ACTION

Participate in revision of the C&T use determination process

ISSUE BACKGROUND:

- During a joint Regional Council chair and Federal Subsistence Board meeting in May 1998, the difficulties faced by both groups in making C&T determinations was discussed. As a result, the Board appointed a task group to seek Regional Council review of C&T determinations.
- In August of 1998 the task group released a document requesting input from the Regional Advisory Councils on the C&T process. The document focused on why C&T determinations are made and presented 3 alternatives for revising the existing process. Input on the process and the concepts in this document were requested by December 1998.
- On August 31, 1998, the Denali SRC provided comments to the C&T Task Group on their request for input on the C&T determination process. The SRC supported the “Modified Factor Option” on page 3 of their report with the following changes to the 5 factors: Factor 1: drop the words “wide diversity” from the sentence which then reads “...reliance upon fish and wildlife resources”; Factor 2: add the words “proximity to resources” to this sentence to read “...influenced by local characteristics and proximity to resources reasonably accessible from the community or area,” and Factor 6: add a sixth factor – “Local traditional knowledge from residents, Commission and Council members representing the community or area should have significant influence in making C&T determinations.” (see letter on page 10).

In regards to the question of whether C&T determinations protect subsistence uses or unnecessarily restrict subsistence users, the Denali SRC supported the following position:

C&T determinations can provide protection to local rural subsistence users as directed by ANILCA, but where inappropriately applied can drastically and unnecessarily restrict legitimate subsistence use of the resources as was the case with the McKinley Village-Parks Highway C&T determination which took a decade to correct. The Commission recommends that the Federal Subsistence Board make no C&T determinations unless one is needed to protect the resource.

CURRENT STATUS:

- The task group reviewed comments received on the August 1998 request for input on the C&T process but was unable to reach consensus on a new direction. The C&T process will continue as set for now. Further discussion on this issue may occur in the future.

SRC COMPLETED ACTION

Change regulations to show a “positive” customary and traditional use of moose and caribou in Unit 20(C) for people residing along the Parks highway between mileposts 216-239.

CHRONOLOGY:

- In 1988 subsistence use permits issued to residents residing in the McKinley Village area were revoked by NPS. The Alaska Board of Game had ruled that the area was “non-rural”, resulting in their inability to qualify for subsistence hunting in the park and preserve.
- In June of 1988 the SRC prepared a letter to the Alaska Board of Game expressing concern over recent changes in the customary and traditional use findings. The change from a “positive” to “negative” finding resulted in a group of people living between Healy and Cantwell losing their ability to hunt in Denali National Park and Preserve (letter on page 13).
- In July, 1988 the Alaska Department of Fish and Game responded to the SRC letter. Their response said that the joint Boards of Fish and Game had acted appropriately in changing the customary and traditional use determinations for moose and caribou in Units 20(A) and (C). The joint Boards were unable to conclude in favor of the residents along the Parks Highway because they did not meet the eight criteria used in making a customary and traditional use determination. ADF&G suggested SRC work with the NPS to have permits re-issued (letter on pages 13-14).
- In December of 1989 the SRC again wrote to ADF&G asking that they attempt to resolve the problem (letter on page 14).
- The SRC prepared a letter to the Federal Subsistence Board in March 1991 asking that regulations be revised to allow re-issuance of permits revoked by the NPS (letter on page 15).
- In September 1991 NPS responded to the SRC request on behalf of the Federal Subsistence Board. NPS indicated that they could only re-issue permits to people for those species in which they had a “positive” customary and traditional use finding (letter on pages 15-16).
- On November 23, 1993 the Eastern Interior Regional Advisory Council sent a letter to Ron McCoy, Chair of the Federal Subsistence Board. The Council stated that the Parks Highway C&T determination for the area near Denali National Park and Preserve should be given the highest priority for resolution (letter on page 16).

- In 1994 and 1995 NPS re-issued subsistence use permits to residents in the McKinley Village area.
- In February 1995, the SRC requested that the Superintendent of Denali inform the original subsistence use permit holders what possible actions they might pursue to get their permits back (letter on page 17).
- On June 5, 1995, the Southcentral Regional Advisory Council made a recommendation to the Federal Subsistence Board asking that the Board request NPS to work on C&T eligibility determinations for the area along the Parks Highway between mileposts 216 and 239 before the Copper River Basin area (letter page 17).
- An SRC letter to the Federal Subsistence Board (with copies to the Southcentral, Eastern and Western Interior Regional Advisory Councils) (June 1995) requested a review of the existing C&T determinations in the Denali area. The SRC asked the Board to grant a waiver to the 6 individuals whose permits had been revoked should the eight factors not be met by the community or areas as a whole (letters on page 18).
- The Denali SRC submitted a proposal (#19) to change the customary and traditional use determinations for moose and caribou in Units 20(C) and 13(E) for people living along the Parks Highway between mileposts 216-239 for the 1996-97 regulatory year.
- On April 29, 1996 the Denali SRC wrote a letter to the Federal Subsistence Board recommending adoption of proposal #19 as modified by staff analysis (letter on page 19).

RESOLUTION:

- The Federal Subsistence Board made a “positive” customary and traditional use determination for residents along the Parks Highway between mileposts 216 and 239 (letter on page 18). NPS permits that had been re-issued in 1994 and 1995 became valid for those species recognized under the new C&T determination.

SRC COMPLETED ACTION

Individual C&T determinations for NPS lands.

ISSUE BACKGROUND:

- Federal Subsistence Management regulations provide a mechanism for the Federal Subsistence Board to make individual C&T determinations for NPS lands.
- In March 1997, Dan O'Connor, of Healy, petitioned the Federal Subsistence Board for an individual customary and traditional use determination for use of moose in GMU 20(C) and 13(E). The community of Healy, where he resides, does not currently have a positive C&T determination for these two subunits (letter on page 22). His request was the first made under this relatively new regulation.
- The SRC prepared a letter in March 1997 to the Federal Subsistence Board lending their support to O'Connor's request and asked that the decision be made prior to the start of the moose hunting season (letter on page 22).
- The Eastern Interior, Western Interior and Southcentral Regional Advisory Councils considered the O'Connor proposal at their winter meeting in 1998. The Councils modified a proposal to grant Dan O'Connor individual C&T use and recommended a process of recognizing NPS subsistence use permittees (13.44 permittees) as a group to have individual C&T use on NPS lands without listing the individuals names in the Federal Regulations booklet.
- NPS Deputy Director Paul Anderson, in August 1998, sent a letter to Dan O'Connor indicating that his proposal had been deferred. He said that the Regional Solicitors office had been requested to conduct a legal review of the regulation allowing for individual C&T determinations (letter on page 23).
- On August 31, 1998 the Denali SRC sent letters to the Federal Subsistence Board, to the Secretary of Interior and to Dan O'Connor saying they were disappointed that the Federal Subsistence Board had deferred action on Dan O'Connors' individual C&T determination. The SRC also said they did not believe that the deferral and legal review were necessary. They requested the legal review be expedited and that the O'Connor proposal be placed before the Board at the earliest possible date (see letters on page 24).
- At the October 13, 1998 meeting of the SRC chairs for NPS areas, the chairs recommended that the Park Superintendents' follow the SRC's recommendations for making C&T determinations on an individual basis. Denali and Wrangell-St. Elias SRCS have made such recommendations.

NPS responded to this recommendation (letter dated May 1999 appears in Chapter 1: SRC Functions, pages 8-10) saying that a solicitor's review of the regulation confirmed

that the responsibility to make individual C&T determinations lies with the Federal Subsistence Board. This responsibility cannot be delegated to Park Superintendents. At the Federal Subsistence Board's meeting in May 1999, two proposals for individual C&T determinations were acted on in favor of the proponent. The FSB decided at that time to limit the extension of individual C&T determinations to National Park and Monument lands only. Therefore, these determinations will not apply in National Preserves.

- In December 1998, the Western Interior Regional Advisory Council (RAC) sent a letter to Solicitor Goltz asking for an expedited positive finding that authority exists to implement individual C&T determinations on NPS lands and that a similar process on other lands could also be implemented. They expressed their disappointment in the deferral of Dan O'Connors' request for an individual C&T and recommended that all 36 CFR 13.44 permittees be granted a positive C&T determination for Park lands (see letter on page 25).

R*ESOLUTION:*

- A solicitors' review of the section of the Federal Subsistence regulations allowing the Board to make individual C&T determinations was completed on March 23, 1999. The Solicitor concluded that the Board does have the authority to make individual C&T determinations on lands administered by the NPS (letter on pages 26-27).
- The Federal Subsistence Board gave Dan O'Connor a positive individual C&T determination for moose in Units 13E and 20(C) at their meeting in May 1999. On April 30, the Board adopted a policy whereby individual C&T determinations would be limited to National Park and Monument lands only (not preserves) (see pages 27-28).

A*UTHORITY:*

50 CFR Part 100 Federal Subsistence Management

HARVEST OF FISH

Status on Resolution of Alaska's Subsistence Management Impasse

On October 1, 1999 final regulations were implemented expanding federal management of subsistence fisheries in Alaska. The action complies with the 1995 federal court decision in the Katie John case (Alaska v. Babbitt, 54 F.3d 549 (9th Cir. 1995)) and expands federal management to include all waters in the State where the federal government has a reserved water right. Federal management now extends to approximately 60% of Alaska's rivers and lakes including almost 2000 miles of rivers and streams in Denali National Park and Preserve.

The Department of Interior supports a subsistence priority and a return to state management of fish and wildlife for all uses, including subsistence management.

Final Fisheries Regulations

The final federal subsistence fisheries regulations are very similar to existing State of Alaska subsistence fishing regulations. Few changes in subsistence harvests are anticipated at the outset of federal management. The regulations incorporate and respond to public review comments received from more than thirty public hearings held throughout Alaska.



Photo courtesy of Percy Duyck

The regulations identify the federal waters involved and acknowledge existing authorities of the Secretaries of Agriculture and Interior to intervene off of federal lands and waters to protect subsistence harvests on federal lands and waters. The regulations also determine the customary and traditional uses for fisheries and establish federal subsistence seasons, harvest limits, and methods and means restrictions.

Waters Included Under These Regulations

The regulations apply on inland waters within the exterior boundaries of national wildlife refuges; national parks, monuments and preserves; national conservation and recreation areas; national wild and scenic river corridors; the National Petroleum Reserve; and the Chugach and Tongass National Forests. Jurisdiction extends to fresh waters flowing through state, private, and Alaska Native corporation lands (except the Metlakatla Reservation), within the boundaries of these federal land units. A map showing the areas in Denali National Park and Preserve subject to Federal fisheries management is located in Appendix F.

Other Important Changes Included in These Regulations

Included in these regulations are two other important changes to the federal subsistence management program. These regulations provide for the non-commercial exchange of subsistence foods through customary trade and extend jurisdiction for subsistence wildlife management to selected but not conveyed lands within federal conservation unit areas.

The Role of the SRC

At the outset of federal subsistence management of fisheries, few changes will occur in the existing advisory and decision making structure that is currently in place. The 10 regional advisory councils will continue to meet as scheduled and will consider fisheries regulation changes and issues along with wildlife regulatory change proposals and issues. The SRC will continue to function as the primary advisory group for actions taken in the park under the expanded federal subsistence program.

Over time it may become necessary to re-evaluate the existing advisory council structure if the additional work required to manage fish becomes too overwhelming or to consider a different method of addressing regulatory changes. Likewise, the SRC may find it necessary to re-evaluate their additional workload and may choose to lengthen meetings or meet more frequently.

AUTHORITY:

50 CFR Part 100 Subsistence Taking of Fish and Wildlife

SRC PROPOSED ACTION

Collect historic information on the harvest of fish from local users and elders and include this information in the official records.

ISSUE BACKGROUND:

- The SRC supports the gathering of traditional ecological knowledge (TEK) on the harvest of fish in the park. This data will be collected during the on-going community profile update for the resident zone communities of Cantwell, Lake Minchumina, Nikolai and Telida.
- In a letter to Superintendent Steve Martin and Federal Subsistence Board Chair Mitch Demientieff dated February 14, 2000, the SRC stressed the need to collect baseline historical data regarding fisheries for the Denali area. The SRC reiterated that local people have that knowledge; they need to be involved in a process where the information can be documented for use in analyzing proposals in the future (letters on page 4-5).
- In the same letters, the SRC also unanimously supported the proposal to establish a community harvest monitoring assessment program for the resident zone communities of Cantwell, Lake Minchumina, Telida, and Nikolai and to update the existing information in the Subsistence Community Profile Database. The SRC felt the study would help provide both current and past baseline information on the community's fish and wildlife needs and annual harvest. The Commission recommended working closely with community elders and tribal entities to ensure they have a meaningful role in collecting local information and keeping harvest data up to date (letters on page 4-5).
- In the letter to Superintendent Martin of February 14, 2000, SRC members commented on their own historical fisheries observations (letter on page 4):
 - 1) now is a good time to check Highpower Creek (on the west edge of the northern Preserve) as it was an important fishery use area in the past but is not a significant use area today.
 - 2) There were "lots" of chum salmon in Moose Creek until mining was started upstream in the Kantishna Mining District.

King Salmon are present in Clear Creek (a tributary to the Kantishna River just above the mouth of the Toklat River), and there were some King Salmon below Bearpaw River.

CURRENT STATUS:

- The Denali SRC, by unanimous vote, passed a motion in support of the 2004 proposal to document the "Traditional Ecological Knowledge of Long Term Variation of Fish on the Upper Kuskokwim River" (see letter dated February 26, 2003 on page 6).

NPS PROPOSED ACTION

Establish an NPS fisheries management program for the Denali, Gates of the Arctic and Yukon-Charley National Park and Preserve cluster.

ISSUE BACKGROUND:

- NPS has organized Denali National Park and Preserve, Gates of the Arctic National Park and Preserve and Yukon-Charley National Preserve into a cluster for the purposes of dealing with fisheries management issues.
- In the spring of 2000, NPS hired Fred Andersen as the fisheries manager for the cluster.
- In 2000 fisheries research proposals were submitted to the US Fish and Wildlife Service for funding. Those proposals were:
 - 1) Kantishna River fall season salmon stock assessment project. This cooperative project between the ADF&G and NPS involves the use of live capture fishwheels for the marking and recapturing of chum salmon on the Kantishna and Toklat Rivers. The project was funded by the US Fish and Wildlife Service for two years starting in 2000.
 - 2) Gather traditional ecological knowledge on the use of fisheries in Denali historically (see the previous salmon color page for details on this project and SRC actions relating to it).
 - 3) Aerial stream survey counts of salmon in Denali. This project was funded by the park and the Bering Sea Fisherman's Association (\$1800). The surveys were flown in the summer and fall of 2000.
- The SRC supported the projects in letters to Superintendent Steve Martin and to the Federal Subsistence Board Chair Mitch Demientieff dated February 14, 2000. These letters appear in the chapter on pages 4-5.

CURRENT STATUS:

- The Kantishna River fishwheel project was started in the summer of 2000 and will continue in 2001.
- The aerial stream survey of salmon was also begun the summer of 2000.