

July 31, 2007

Paul R. Anderson
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Denali Park, Alaska 99755

Dear Superintendent Anderson,

On behalf of the directors and over 350 members of the Denali Citizens Council, I am submitting comments on the Cantwell Subsistence ORV Management EA. The issue of ORV use in the national parks has been an ongoing concern for our organization. We support the right of access into the ANILCA additions of Denali National Park for qualified subsistence users. We understand that ORVs were found to have been “traditionally employed” for subsistence, and that this EA is meant to implement that finding (July 2005). As you recall, we submitted comments on the Traditional Use Finding in 2005. We would like to commend the National Park Service on being proactive and agreeing to take seriously those claims from subsistence users. Although this is a difficult issue, we support the rights of legitimate subsistence users. Moreover, it is directly in the interests of subsistence users that inappropriate uses and levels of use be avoided.

NPS has asserted that Denali National Park is closed to the use of ORVs until opened, except within the Traditional Use Area identified. Additionally, NPS has asserted that the opening of national park lands to ORV use represented by this EA is **very specific and limited** to qualified subsistence users in the TUA. We understand that the Traditional Use Finding has already validated the use of ORVs for subsistence in the TUA, but it is important to remind NPS that off road vehicles were never specifically mentioned in ANILCA as “other means of surface transportation.” (Section 811(a)) We understand that ORV use has come to be recognized as such over the years, subject to detailed analysis of traditional use practices. The Final EA should stress the limited nature of this finding and restate that the park in general is ***closed until opened*** to ORV use.

DCC Board

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Throughout the discussion of ORV use in the Cantwell area, we have urged NPS to treat this process at the **EIS level of analysis**. Although NPS has determined that it is not necessary to do so up until this point, we do appreciate the level of detailed analysis and public input sought, so far, during this EA process. However, if NPS must choose any alternative that includes the building of an access trail into the Bull River or off-trail retrieval of moose and caribou, further analysis at the EIS level, and further consultation with the State of Alaska, will be necessary.

Our comments are organized according to topic headings. Under each heading, we discuss important details that must be stated in the EA and areas where we feel that the EA must analyze the issue further. We have examined the preferred alternative (3), and have suggestions on amending that alternative to reduce impacts while allowing reasonable subsistence access for ORVs. Because of the inevitable damage to resources that has been recorded from ATVs, we will suggest ways that the EA 1) legally and fairly limit the number of subsistence users, 2) limit the timing of ORV access, and 3) establish fairer, more stringent wildlife management practices.

Maintain 1980 Levels of Use

Ostensibly, this EA does little to guarantee that ORV use levels remain at 1980 levels, a limit that expresses the real intent of ANILCA. In fact, this topic was eliminated from detailed study in **Section 2.8.6**, the justification being that, “there is too much uncertainty about the correlation between the 1980 ORV use levels within the TUA and potential resource damage. Therefore, to limit the use levels to this number would be an arbitrary decision.” (EA, p. 2-22) We disagree. The decision to maintain use levels to those prior to 1980 is in line with the intent of Congress and therefore cannot be based strictly on “resource damage” criteria. Of course, use of ORVs at 1980 levels must be subject to regulation to protect park values, but introducing and allowing MORE use and justifying it because it causes no harm is not upholding the spirit of ANILCA. Granted, modern ORVs may cause less damage than the larger track vehicles traditionally employed. However, this is a good thing in its own right and does not argue that therefore more use should be allowed.

The Denali Subsistence Resource Commission, which is composed of users, has argued this position (EA, p. ES-1), “Specifically, in a September 29, 1996 letter to the NPS, the Denali SRC made the following recommendation: ‘Access should be allowed at the same level as 1980, with reasonable allowances for restrictions to preserve the environment.’”

Analyze resident Zone Composition

The Cantwell Resident Zone, an area of 3 mile radius around the Post Office, has been established in the EA as the legal basis for determination of eligibility for subsistence access into the TUA. Although resident zones are legal entities, Congress recognized that they might have to be revisited as population trends and the composition of the zones themselves changed. The Report No. 96-413 of the Committee on Energy and Natural Resources, U.S. Senate, to accompany H.R. 39, November 14, 1979, p. 170, in regard to resident zones, stated that:

“subsistence hunting is consistent with the protection of park and monument values only so long as such zones remain composed of primarily of concentrations of residents with an established or historical pattern of subsistence uses of wildlife. The direction of the evolution of many rural communities within resident zones is as yet undetermined. As a result, the composition of residents within a particular community may alter substantially in the future. If so, the Committee expects, and section 203 and Title VIII so authorize, the National Park Service to protect unit values by determining eligibility of residents of communities within previously designated zones through implementation of an individual permit system.”

NPS chose to eliminate this from further consideration in **Section 2.8.3**, asserting that “This proposal would not significantly change the present need to manage, or change the impacts from, the use of ORVs by qualified subsistence users in the TUA.” We disagree. This EA is incomplete until it includes adjustment of the Resident Zone as a legitimate tool to be used in avoiding negative impacts from ORV access in the TUA.

Clarify the definition of “Qualified Subsistence User”

The EA defines qualified users as those who: “(1) are local rural Alaska residents *and* have a positive customary and traditional use determination for the species and wildlife in the management unit where they want to hunt *and* who permanently reside in the Denali National Park resident zone (are residents of the park, Cantwell, Nikolai, Minchumina, or Telida); or (2) are local rural Alaska residents who have been issued a 13.44 subsistence use permit by the superintendent of Denali National Park and Preserve.”

Part (1) of this definition appears to limit the number of subsistence users to a group smaller than the number of folks who actually live in the resident zone community, since the requirement of having had a traditional use determination is added to this definition. However, we note that the 2007/2008 Federal Subsistence Wildlife Regulations state that “subsistence users must be local rural residents of NPS areas,” adding no other qualifier. In addition, the Federal

Subsistence regulations appear to indicate that simply by residence in a resident zone, rural users in Unit 13 already have a customary and traditional determination.

Please clarify whether or not Part (1) is meant to reduce the number of hunters eligible for a permit to hunt moose and caribou to a smaller group of users with a unique, multigenerational pattern of subsistence use in the TUA, or whether the broader notion of a customary and traditional use determination as forwarded in the Federal Subsistence regulations is being used. If the former, you have, in effect, limited access as ANILCA would have intended, an action that we wholeheartedly support, and that, we think, will include the bulk of those hunters who have petitioned the National Park Service for the ability to hunt moose and caribou using ORVs.

Part (2) of the definition could potentially fold in people who do not live in a resident zone and do not have a history of pre-ANILCA use, since there is at least one individual who qualified for this permit on the basis of post ANILCA use. The EA needs to explain how the granting of 13.44 permits will preserve the intent of ANILCA, if this is used as a standard for determining who can use ORVs for subsistence.

The Final EA must show how NPS will prevent the inevitable growth in population of rural communities and resident zones from triggering ORV use that is beyond the intent of ANILCA. On page 4-34, the EA discusses the “50 Cantwell households that hunt.” From what data were these numbers pulled? They seem large, when considering the input from the Traditional Use Finding and the population of Cantwell in 1980. Given the definition of “qualified subsistence user” given in the EA, are there truly 50 qualifying households?

Limit the length of time that ORVs can be used in the TUA

The length of the hunting season advocated in Alternative 4 allows for enough access for hunting by limiting use of ORVs to one week from the beginning of moose and caribou hunting seasons until the end of those seasons. This would make for ORV subsistence access roughly between the last week of July and the end of September of any given year.

We understand, however, that when NPS opened the TUA to qualified subsistence uses, the emergency closure to ORV use was performed during hunting season only. We hear that locals have used ORVs throughout the summer months. Limiting this access to a shorter period of time through this EA, a period of time that is focused strictly on hunting moose and caribou, will still provide reasonable access, although it will be difficult to enforce, and will require that the community and NPS work together to avoid negative impacts.

Avoid new actions that would further impair Wilderness integrity

We disagree with the assertion in the EA that actions under the Preferred Alternative would “retain eligibility for wilderness designation status for the TUA.” We realize that NPS has pledged to manage lands in the ANILCA additions as if they were Wilderness until such time as the identification and designation process mandated in ANILCA is completed. However, the use of ORVs and the complex, airborne system of management needed for monitoring and mitigation removes the TUA from Wilderness eligibility, and it should be so asserted in the Final EA.

Even the most conservative management plan for ORV use will involve major impacts to wilderness character through

1. manipulation of park resources in the building and marking of trails,
2. interruption of natural sounds not solely from the ORVs themselves, but really more from the amount use of helicopters and airplanes that would be required to monitor and enforce the plan, and
3. designation of the Backcountry Management Unit definition to Corridor (reflecting a more crowded experience for all users).

Subsistence uses in and of themselves do not impair Wilderness suitability, but introduction of widespread access for ORVs does. In addition, construction of a new trail on the Bull River most definitely constitutes an impairment of Wilderness eligibility. We encourage that this action be removed from the preferred alternative. More points on the Bull River Trail are listed below

Leave out a new trail construction – Bull River

There are three reasons to leave out this trail:

- a. New trail construction in Denali National Park backcountry violates long standing policy.
- b. New trail construction in Denali National Park impairs Wilderness eligibility and integrity.
- c. The traditional use finding for National Park lands on the Bull River is weak in comparison to the finding for Windy and Cantwell Creek lands,
- d. Impacts to adjacent state lands have been inadequately analyzed. In fact, in the Preferred Alternative NPS creates a trailhead at the boundary to Denali National Park by building the Bull River access trail where none existed before. This will encourage use on nearby state lands, and likely some of that use will occur on soils where NPS itself would never authorize trail building. As such, NPS action will act to encourage damage on adjacent

public lands. Such action requires analysis at the EIS level, and further consultation with the State of Alaska to develop a cooperative plan. The current EA provides insufficient analysis of this important and truly unprecedented federal action.

Provide a stronger set of management tools (p. 2-16)

We support the degradation levels detailed in the EA. However, the EA is vague regarding actual action that will be taken when degradation reaches the “action” level. One would assume that the action would fit the level of degradation, but the most appropriate intervention for actionable degradation would be to **close** that trail until damage could be repaired. All of the other interventions, especially education, monitoring and enforcement and technology requirements are important, proactive elements of general plan implementation and should not be considered response to degradation. The management plan should give more specifics regarding how often and in what way trails will be monitored during the period of ORV use (daily? once a week? Where? How extensive?)

Anticipate conflicts with recreational uses

The EA speaks to some moderate impacts to “visitor experience,” but should plan more proactively for conflicts between subsistence and recreational uses, for three reasons:

- a. Most recreational users would not anticipate the use of firearms, and need ample warning. Possible closure to recreation during hunting season should be seriously considered, and trailhead information provided.
- b. Some recreational users may attempt to take ORVs into the park, especially on those trails that take off from the Parks Highway. We realize that this is not the intent of the plan or the desire of the legitimate users, but it is likely, over the years. The plan must state how it will monitor this activity, which could occur any time of the summer off state lands.
- c. Designation as corridor for these lands invites uses that may not be appropriate recreationally, and must be managed.

Address conflicts with Natural and Healthy wildlife management

Regarding moose, the EA states on page 3-23 that in November of 2005, the most recent survey in the TUA, the “bull/cow ratios show signs of stress to the population....65 cows and 29 bulls, a 45:100 ratio, with 8 calves...NPS wildlife biologists have concluded that these numbers generally do not show an excess population that can be harvested.” The 2005 moose density was 1.2 per square mile. Caribou are present, however both contributory herds, the Denali and the Nelchina, have seen reductions over the past years, with the Denali making small gains lately.

It would appear from these data that the TUA cannot handle the impact from up to 50 households hunting, and that even doubling the hunt from 5 to 10 harvested bull moose could overtax the resource. By this token, it would not take long before caps on hunting would be required. The EA touches on this subject very lightly, asserting that Alternative 3 would not result in impairment of park resources, but a situation is set up by this plan that could easily do so. How will NPS manage, in cooperation with the Federal Subsistence Board and the State of Alaska, to set appropriate limits proactively? This needs to be spelled out in greater detail.

Regarding wolves, the current limit of 10 wolves set by the Federal Subsistence Board is inappropriate, and yet with a scarce ungulate resource, local hunters may elect to press the Federal Board to maintain or even raise that limit, especially if ungulate harvests are limited out and folks are disappointed. This situation places the service in an awkward position, since the management standard in the ANILCA additions is for “healthy and natural” populations. A limit of 10 wolves looks almost like de facto predator control when viewed in the context of a hunted park. DCC had requested last fall that NPS intervene in the Kantishna subsistence hunt to reduce or eliminate the 10 wolf limit there. We were told to take this matter up with the SRC or Federal Subsistence Board. Hopefully, NPS will be more proactive in Cantwell.

Under the preferred alternative, if ORVs are used all summer for subsistence activities, black bears would be subject to predation, as their season is currently July 1st to June 30th. The season for wolves is lengthy as well, Aug 10 – April 30th. This means that ORVs in summer and snowmachines in winter can do subsistence hunts for wolves and bear. Such a situation argues for placing limits on ORV access for purposes of hunting.

In addition, snowmachines are permitted in ANILCA additions for traditional activities, which include subsistence, already under Section 1110. It is not really necessary for NPS to add the possibility of a winter hunt to any alternative in this EA, since that possibility already exists, depending on seasons and permits determined by the Federal Subsistence Board.

The EA should definitely provide more analysis on how NPS will work with the State of Alaska and the Federal Subsistence Board to actively manage this area, not for maximum sustained yield, but for natural and healthy populations. This active management will require surveys, on the ground habitat checks, and cooperative team meetings to set reasonable caps.

Revisit the Cost Analysis

The EA should present a more thorough cost analysis, including descriptions of staff activities requested, priority activities if only partial funds are available, and comparison with the

cost of implementing the current limited openings. How long will there be ranger patrols, mostly air based or also ground based, how will monitoring and ranger patrols differ in the details of their work? Is there enough staff to be in the field every day during the time ORVs are permitted? Is expense of cooperative wildlife management and consultation included in Management Prescriptions? Is this sufficient?

Alternative 3, modified to limit access amounts and times

To summarize our selected alternative based on the discussion above, DCC supports Alternative 3 with the following changes.

- a. Limit use of ORVs for subsistence to a period one week before hunting season and then through the season.
- b. Omit Bull River access trail and use of Bull River floodplain from the plan.
- c. Use trail closures proactively when action levels of degradation are reached.
- d. State priority activities for this plan if not fully funded.
- e. Use more detail to indicate how NPS will manage wildlife in the TUA for natural and healthy populations, whilst still allowing increased access.
- f. Clarify the definition of “qualified subsistence user” as suggested above. Limit access by ORV carefully, as ANILCA intended.
- g. Build into the plan periodic revisions based on scientific research into ORV vehicle size, weight and pressures on the ground.

It is our feeling that legitimate subsistence users, those with a history of pre-ANILCA subsistence practices in the TUA, will not only have sufficient access to the TUA under this scenario, but will ultimately benefit. The suggestions above will help to create a situation that is more sustainable over the long term.

Sincerely,



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