

NATIONAL PARKS CONSERVATION ASSOCIATION®

Protecting Parks for Future Generations®

October 22, 2002

USDA Forest Service
Attn: NFS-EMC Staff (Barbara Timberlake)
Stop Code 1104
1400 Independence Avenue, SW
Washington, DC 20250-1104

RE: Administrative Appeal of Chugach National Forest Plan

Dear Ms. Timberlake and Staff,

I. NOTICE OF APPEAL

The National Parks Conservation Association (NPCA) submits this administrative appeal of the Chugach National Forest Revised Land and Resource Management Plan (Revised Plan) and Final Environmental Impact Statement (FEIS) according to Forest Service Regulations contained in 36 CFR part 217. The Revised Plan and FEIS were issued by Dennis Bschor, Regional Forester, and published on July 26, 2002.

We find the Forest Service **definition of “traditional activities” flawed** because it is inconsistent with the Alaska National Interest Lands Conservation Act (ANILCA). The Forest Service definition allows recreational snowmobiling in Wilderness, the most protected land in the National Forest system. **We request a new definition be adopted** that is consistent with ANILCA and similar to the definition adopted by Denali National Park.

Previous Participation by NPCA regarding the traditional activities definition includes:

- Written comments to Forest Supervisor Dave Gibbons, 12/14/00
- Meeting with Dave Gibbons, 7/26/01
- Written comments to Deputy Regional Forester Jim Caplan, 8/30/01

Our interest in the management of the Chugach National Forest is twofold. First, many of our members enjoy recreating in the Chugach National Forest, especially in places free of motorized vehicles. Secondly, although NPCA's primary focus is on management of National Parks, the ANILCA provisions for snowmobile access apply equally to Forest Service Wilderness and all National Park lands in Alaska. Therefore, how the Forest Service interprets this provision may influence the management of other federal lands such as National Parks.

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II. BACKGROUND AND SUPPORTING INFORMATION

We dispute the Forest Service definition of traditional activities because it is contrary to ANILCA Section 1110(a), Senate report 96-413, and because it defies common sense.

ANILCA Section 1110(a) states,

“...the Secretary shall permit, on conservation system units...the use of snowmachines, motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites.”

ANILCA did not open conservation system units (CSUs) to all snowmachine use, but rather it allows snowmachine use for access to certain purposes related to a utilitarian Alaskan lifestyle. Snowmaching as an activity in itself, is not guaranteed by ANILCA.

The Forest Service definition of traditional activities as listed in the Revised Plan on page 3-21 and again in the FEIS on page 51 of the glossary states:

The Forest Service Manual (FSM 2326.1-6) defines traditional activities as, but not limited to, recreational activities such as fishing, hunting, boating, sightseeing, and hiking.

NPCA adamantly disagrees that recreation, boating, sightseeing and hiking are activities that ANILCA intended to include as “traditional activities”. Hunting and fishing should be included, not because they are a form of recreation but because they are activities that are essential to continuing a rural way of life.

The Forest Service definition of traditional activities is so broad, that no use is excluded. Clearly Congress did not intend this. If ANILCA intended to open CSUs to all types of snowmachine use, it would have simply said, “snowmachines are allowed”. Instead, Congress added the qualifier, “for traditional activities.” It is illogical to conclude all snowmachine use is allowed, otherwise this phrase would have been omitted.

Senate report No. 96-413 (p. 247-248) provides further clarification of what Congress meant by “traditional activities”. This is the final Senate report on ANILCA and accompanied the bill when President Carter signed it. It defines traditional activities as:

“traditional or customary activities such as subsistence and sport hunting, fishing, berry picking, and travel between villages.”

The common attributes shared by these activities are the continuance of a traditional rural way of life in Alaska: harvest, sustenance, and getting home. Recreation represents a categorically different class of use from the traditional and customary activities that Congress enumerated in Senate Report 96-413. Rather, Congress sought only to protect the continued use of certain motorized vehicles for transportation in support of activities that were necessary to sustain a traditional way of life.

ANILCA may guarantee use of a motorboat to reach a fishing spot, but ANILCA does not guarantee use of the same boat for waterskiing. Section 1110(a) may apply to use of a snowmachine to travel along a trapline or to a hunting area, but it does not apply to cross-country snowmachine races through Wilderness or “highmarking” up mountain slopes. Additionally, it is clear that Section 1110(a) is not about recreation when it is

taken in context with the heading it is listed under, Special Access and Access To Inholdings. Common sense dictates that Wilderness, the most protected land in a National Forest, was never meant to include the use of recreational snowmaching. It is ironic that the closures to snowmobiles that do occur within the Chugach National Forest, occur outside of the recommended Wilderness areas.

Please see the enclosed flyer for a summary of the above discussion as well as photos of what traditional activities does and does not mean.

III. REQUEST FOR RELIEF

We request the Forest Service adopt a new definition for both the Revised Chugach Forest Plan and the Forest Manual. We recommend use of a definition similar to the one adopted for the Wilderness core of Denali, which states (in part), "*a traditional activity ... involves the consumptive use of one or more natural resources such as hunting, trapping, fishing, berry picking or similar activities. Recreational use of snowmachines was not a traditional activity.*" This definition works, because you get different answers when applied to different areas based on what has occurred previous to ANILCA and what customary activities are legally allowed. For example, prior to 1980 hunting and travel to and from homesites did not occur in the core of Denali. In Wrangell-St. Elias National Park however, hunting did occur and people did travel through the area to get to homesites and communities. Thus the actual level and types of snowmobile activity guaranteed under ANILCA will be different in those two park units, as they may be in different areas of the Chugach National Forest. The important point however is that while the activities will be different, the definition of what is guaranteed must be consistent with the intent of ANILCA and applied consistently by all land managing agencies.

Thank you for your review and consideration of this appeal.

Sincerely,



Joan Frankevich
Acting Alaska Regional Director

enclosure

cc: Dennis Bschor, Regional Forester

What does ANILCA Mean by "Traditional Activities"?

When Congress passed the Alaska National Interest Lands Conservation Act (ANILCA) in 1980 protecting over 100 million acres of new or expanded parks, refuges, and forests, it recognized the unique needs and lifestyles of Alaska's rural residents and made special provisions for snowmobile use for "traditional activities".

ANILCA Section 1110 (a) states:

the Secretary shall permit...the use of snowmachines...for traditional activities (where such activities are permitted by this Act or other law) and travel to and from villages and homesites.

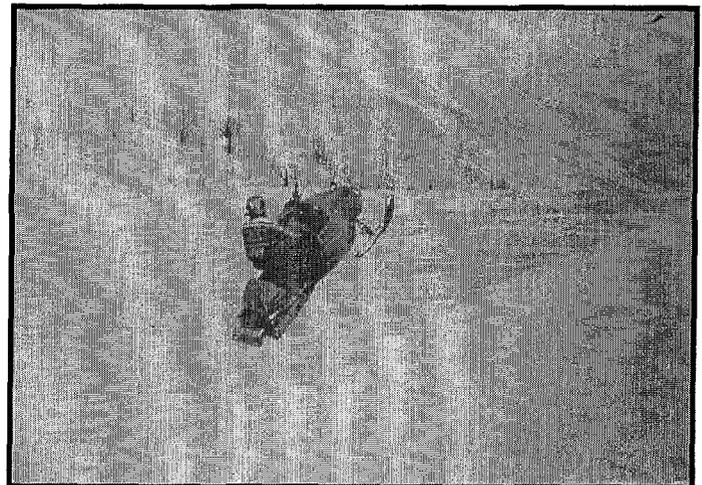
The final report accompanying the bill (S. Rep. No. 96-413, at 247-48 (1980), reprinted in 1980 U.S. C. C.A.N. 5191-92) further explains this access is for:

traditional or customary activities such as subsistence and sport hunting, fishing, berry picking and travel between villages.

THIS



NOT THIS



- **When it preserved snowmobile use to access "traditional activities," Congress recognized the needs of Alaska's rural residents and allowed the continuation of snowmobile use for utilitarian purposes such as getting food (hunting, trapping, fishing) or getting home.**

- **By the phrase "traditional activities" Congress did not mean recreation.** Nowhere in legislative history is recreation mentioned in association with the traditional activities provision.

ANILCA is often referred to as "the conservation vote of the century." The bill's intent was to protect public land along with a rural way of life, not create play areas.



Prepared by The National Parks Conservation Association.
For more information please contact Joan Frankevich at (907) 277-6722.

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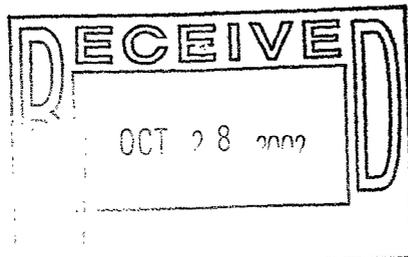
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