

## FINDING OF NO SIGNIFICANT IMPACTS

### Issue a right-of-way permit for access to private inholdings along Spruce Creek in the Kantishna Hills of Denali National Park and Preserve, Alaska

The National Park Service (NPS) has prepared an environmental assessment (EA) to evaluate a request for access to two one-acre inholdings with cabins and other structures for personal, non-commercial uses in the Kantishna Hills of Denali National Park and Preserve. The inholdings are located on the former Spruce #4 patented mining claim about 10 miles upstream of the Moose Creek Bridge near mile 89 of the Denali Park Road. The applicants requested a permit to drive a limited number of personal vehicles across the restricted part of the park road and up an unimproved mining access road along the upper Moose Creek drainage to their private property on Spruce Creek, and to construct short reaches of replacement access road in the last mile along Spruce Creek. The permit will also grant the applicants use of the lower Glen Creek landing strip for small airplanes and to park and drive vehicles from the landing strip to their private property and back. The permit will allow the applicants to maintain the Glen Creek landing strip and other parts of the access in its present useable condition. The applicants have obtained temporary annual access permits since they purchased the property in 1997.

Section 1110(b) of the Alaska National Interest Lands Conservation Act (ANILCA) requires the Secretary of the Interior to provide "Notwithstanding any other provision of this Act or other law, ... such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such ... private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands." These regulations, promulgated in 1986, can be found in Title 43, Code of Federal Regulations Part 36 (Access to Conservation System Units in Alaska).

The purpose of the proposed NPS right-of-way permit is to provide adequate and feasible access for the applicants' personal, non-commercial uses of their private inholdings in a manner consistent with NPS policies and avoiding unnecessary damage or impairment to park resources or values. The applicants consulted with the NPS and others to determine the access route and methods of access that would meet their needs.

#### **Public Involvement**

The EA was released on May 13, 2002 for a 36-day public review period ending June 17, 2002. The EA was posted on the Denali National Park and Preserve web site. The EA was made available to parties who commented on the Spruce Creek Access Draft EIS for access to the same location for purposes of constructing a remote lodge before the NPS purchased 18 of the original 20 acres and all commercial use rights. This EIS was withdrawn in April 2002 (*Federal Register* Notice Vol. 67, No. 109, pages 39037-39038.) A press release was issued on May 15, 2002, but the media focused on the purchase of the property and not the EA. About 35 copies of the EA were mailed to interested parties, including Kantishna landowners, state and federal agencies, the Alaska Congressional Delegation, and various non-governmental organizations.

The NPS received 4 comment letters or emails from the public and 2 comment letters or emails from permitting federal and state agencies. The State of Alaska submitted combined comments from various state agencies. The comments addressed the following issues:

1. Who gets access to the route and for what reasons?
2. Overland access provides adequate access, so the Glen Creek airstrip should be reclaimed.

3. The applicants should walk where the access route becomes impassable along Spruce Creek, or they should walk in from the airstrip or the Denali Park Road.
4. What criteria were used to allocate 30 of the perceived 100 road permits for Kantishna inholders other than the lodges?
5. The NPS cannot authorize access over private property at North Face Lodge until a prescriptive easement is perfected.
6. The NPS should continue plans to acquire these inholdings within the park.
7. The EA and ROW permit should clearly articulate best management practices to protect and monitor park resource conditions along the access route, particularly stream fish habitat.
8. The ROW permit should clearly specify the type and size of vehicle allowed up Moose Creek to minimize impacts to park resources, and the number of permitted vehicle trips along the North Fork of Moose Creek (up to 60 each summer) is excessive for critical grayling habitat.
9. The conflicts between pedestrian access along the Moose Creek Road and motorized access could be avoided by specifying times when motorized access could occur to avoid times when people are hiking.

The attached errata provide the NPS responses to comments.

### **Alternatives**

The EA evaluated the no-action alternative, the preferred alternative, the fly and drive alternative, and the Glen Bench alternative. All of these alternatives would allow the use of the lower Glen Creek Landing Strip in its present condition for the landing and takeoff of airplanes and overland travel from there to the applicants' private parcels on Spruce Creek.

The **no-action alternative** would permit access over the existing former mining access roads. Part of this route involves driving in the bed of Spruce Creek, which is inconsistent with NPS policies to protect wetlands and water resources.

The **fly and drive alternative** is similar to the preferred access route, but this alternative allows flying into Glen Creek landing strip and driving from there only to and from their private properties. This alternative would not permit overland access across the park road to the Kantishna area and up the Moose Creek drainage to the confluence with Glen Creek.

The **Glen Bench alternative** avoids driving in important fish habitat of the North Fork of Moose Creek, but it would require the applicants build over one mile of new road across wetlands. This alternative would require considerable gravel either from the park or outside sources, about 1.3 acres of wetland mitigation, and relatively high construction expense.

**Alternative considered but rejected** include four alternatives listed in the EA and those options described by commentators suggesting the applicants walk 1.5 to 10 miles to their private property from the Glen Creek landing strip, a parking area on lower Spruce Creek, or the Denali Park Road. See the attached errata.

### **Environmentally Preferred Alternative**

The fly and drive alternative is the environmentally preferred alternative because it would result in less impact to aquatic resources and fish habitat than the no-action or preferred alternative and far less impact to park visitors than the Glen Bench alternative. The fly and drive alternative would result in greater noise impacts to wildlife and the few park visitors expected in the area because greater airplane noise would result. Though these noise impacts would be greater in frequency than expected in other alternatives, they would be intermittent, of short duration, and not unlike existing noise intrusions.

### **Mitigation**

Mitigation to be taken in conjunction with the NPS preferred alternative include:

- **Wetlands:** About 0.37 acres of wetlands will be restored for wetlands lost on an acre-for-acre basis, per NPS policy. The applicants will either pay the going rate for wetlands restoration or perform the work themselves under the guidance of the NPS. The U.S. Army Corps of Engineers would issue a Clean Water Act Section 404 permit to fill wetlands and would require geotextile matting to protect underlying permafrost and wetland tundra, silt screens, and other best management practices to protect wetland resources.
- **Road construction:** Road building and maintenance activities would be authorized only at times not critical for breeding or migrating birds and fish and to avoid unnecessary adverse impacts to fish habitat as specified in a permit issued by the Alaska Department of Fish and Game.
- **Vehicle use:** Vehicular travel through Moose Creek and its tributaries would be reduced during critical fish migration and spawning periods, usually in May and early June. .
- **Aircraft use:** When conditions allow, the NPS encourages the owners to follow FAA Advisory Circular 91-36C to fly at least 2,000 feet elevation above ground surface except when landing or during takeoff to minimize adverse noise impacts to wildlife or people on the ground.

### **Environmental Consequences of Preferred Alternative**

As documented in the EA, the NPS has determined the preferred alternative can be implemented with no significant adverse effects to geological (gravel) resources, natural quiet, visual resources, water quality and aquatic resources, vegetation, wetlands, wildlife and its habitat, cultural resources, public use, subsistence, or wilderness. The environmental effects of the preferred alternative are summarized below.

**Geological (Gravel) Resources:** An estimated 205 cubic yards (cy) of gravel would be needed to construct new segments of vehicle access along Spruce Creek and about 10 cy per year to maintain rough spots in the access route. The gravel would be obtained from tailings piles or floodplain gravel from within the right-of-way and transported short distances to locations needing fill.

**Natural Quiet and Visual Resources:** The action would result in short-term noise impacts because of road construction along Spruce Creek. A slight decrease in permitted vehicle access and limited airplane access could lead to less long-term noise impacts than with the temporary access permits issued over the last 5 years. Scenic quality of the area would receive negligible impacts because the vast majority of the access route lies in thick vegetation along valley bottoms and is shielded from public view.

**Water Quality and Aquatic Habitat:** Sedimentation and turbidity in Spruce Creek and the North Fork of Moose Creek would increase slightly during the limited period of road construction. Because vehicle access over the bed of Spruce Creek would be reduced over the long term, water quality in Spruce Creek and upper North Fork would be expected to improve over time. The limited vehicle traffic over 32 stream fording sites (38 in no-action) and reduced distance of vehicles in the streams (about 1,650 less distance than in no-action) would result in minor long-term adverse impacts to water quality and fish habitat.

**Vegetation and Wetlands:** An estimated 0.63 acres of vegetation including about 0.37 acres of wetlands would be removed to construct new road segments to avoid about 1,650 feet of road in the bed of Spruce Creek and eliminate 6 stream fords.

**Wildlife and Habitat:** A negligible area of habitat would be removed and disturbance to wildlife is expected to be sporadic and negligible because of the continuing low level of human use in the area.

**Cultural Resources:** The minor new road construction would disturb no known historic or archeological resources, and the potential for disturbing unknown cultural sites in this recently disturbed area is negligible.

**Public Use:** Hiker access to the area would be facilitated with use and light maintenance of a narrow vehicle corridor to the area, but hikers and backpackers would be disturbed by the limited and slightly reduced permitted traffic in the area.

**Subsistence:** There would not be any significant restrictions to subsistence uses of the area.

**Wilderness:** The action would avoid designated wilderness and is located in areas found unsuitable for future wilderness designation because of past and ongoing mining activities. Maintaining a road and vehicle access in the area would preclude it from future consideration as wilderness even if mining activities cease in the area.

### **Decision**

The NPS decision is to select the preferred alternative and prepare a 5-year right-of-way permit for signature by the Regional Director. Assuming the applicants obtain all other required federal and state permits, the applicants will complete minor access improvements in summer and fall of 2002, or at an appropriate time identified by the Park Superintendent in the summer season of 2003. The applicants will also pay for or restore directly at least 0.37 acres of wetlands at the direction of the NPS. The applicants will be able to renew their ROW permit every five years, as needed. The Park Superintendent may annually negotiate an appropriate number of Denali Park Road vehicle passes with the applicants. The decision incorporates all mitigation measures identified in this finding of no significant impact.

### **Rationale for the Decision**

The preferred alternative will provide adequate and feasible access for the applicants pursuant to ANILCA Section 1110(b) and implementing regulations. The applicants and NPS prefer this access alternative because it reduces stream crossings to the extent practicable to protect aquatic (fish) habitat and water quality. Though this alternative will adversely impact about 0.37 acres of wetlands, it will avoid direct impacts to about 1,650 feet of stream channel. The preferred alternative slightly increases the maintainability of the route because it avoids flood-prone parts of Spruce Creek. As described above, this access will result in minor impacts to park resources. The preferred alternative will not result in the impairment of those resources that fulfill the

specific purposes identified in the establishing legislation for the park or that are key to the natural and cultural integrity of the park and preserve.

The preferred alternative complies with the Endangered Species Act, the National Historic Preservation Act, and Executive Orders 11988, 11990, and 12898. There will be no significant restriction of subsistence activities as documented by the ANILCA Title VIII, Section 810(a) summary evaluation and findings.

I find the preferred alternative does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, in accordance with the National Environmental Policy Act of 1969 and regulations of the Council of Environmental Quality (40 CFR 1508.9), an environmental impact statement will not be prepared for this project.