

L7617 (DENA-Plan)
Spruce 4

Dear Reviewers:

The National Park Service (NPS) thanks you for your interest in the environmental assessment (EA) for access to private property along Spruce Creek in Denali National Park. The NPS has completed this EA in accordance with the National Environmental Policy Act and the National Interest Lands Conservation Act (ANILCA) Section 1110(b) – Access to Inholdings and implementing regulations at 43 CFR Part 36. The NPS received a total of 6 comment letters and emails on the EA. In an attachment the NPS summarizes the comments and responds to the comments.

After careful review the NPS has decided to issue a finding of no significant impact (FONSI, attached.) No sooner than 30 days after distribution of this letter and FONSI, the NPS would issue a right-of-way permit from the Regional Director to the applicants to proceed with minor improvements to the access as described in the preferred alternative of the EA. The applicants would need to obtain the necessary permission from: 1) the U.S. Army Corps of Engineers for a Clean Water Act Section 404 permit; 2) the Alaska Department of Fish and Game for a Fish Habitat Protection Permit; and 3) Denali Wilderness Centers, Ltd. for access across their private property.

Again, the NPS appreciates your time and efforts in reviewing the subject EA.

Sincerely,

Paul R. Anderson

cc:
Jeff Barney
Gene Desjarlais

bcc:

ARO – Lands, Gilbert

ARD – Operations, Knox

ARD – Resources, Tingey

DENA – Herring

DENA – Carwile

DENA – Official Files

DENA – Reading Files

ERRATA

Environmental Assessment Spruce Creek Access Denali National Park and Preserve, Alaska April 2002

NPS Responses to Substantive Public Comments on the Spruce Creek Access EA

The NPS received a total of 6 comment letters and emails on the EA from the following parties:

1. U.S. Army Corps of Engineers (USACE)
2. State of Alaska (AK)
3. Denali Wilderness Centers, Ltd. (DWC)
4. Denali Citizen's Council (DCC)
5. National Parks and Conservation Association (NPCA)
6. Kantishna landowner Paul Shearer (PS)

The responses to these comments are attached. Many of the comments are paraphrased or summarized from the original comments.

1. U.S. Army Corps of Engineers (USACE)

The USACE asked if the EA was final. They also wrote a letter to the applicants dated June 20, 2002 to request additional information before processing their application to place fill material in wetlands. Because the road construction would affect about 0.37 acres of wetlands, this project would fall under nationwide (NW) permit #14 for fill on less than 0.5 acres along a linear transportation project. The USACE plans to put out a 15-day pre-construction notification to appropriate state and federal agencies and allows 10 days for comment on a nationwide permit, but could extend this 15 days, if warranted. The USACE can usually complete their review and authorization for a NW permit in 30 days. The applicants have received the letter from the Corps, but they have not yet responded.

The NPS is attempting to meet the requirements of ANILCA Title XI and implementing regulations to process NEPA compliance and permitting decisions for access to an inholding in the specified period of time. The NPS has released its final EA; no additional EA will be released for this access request. As of July 25, 2002, the USACE file for the project was closed and remains inactive until the applicants supply the additional information requested. The NPS EA specifies that the applicants lay down geo-textile over wetland areas to reduce the amount of gravel fill needed and to minimize impacts to wetlands. The NPS also recommended the applicants plan culverts in a couple locations near Spruce 4 to handle small rivulets.

2. State of Alaska (State)

The State of Alaska believes the NPS preferred alternative would provide adequate access without extensive improvements. The State believes the minor reroute along Spruce Creek is reasonable and appropriate to avoid vehicles traversing the creek bottom. The State recognizes the Moose Creek Road has been in existence for many years, and use of the road and the Glen Creek Landing strip should be allowed for the applicants and public.

- The State's one significant comment strongly objects to any possibility the NPS would restrict subsistence activities in the area, including discharge of firearms.

The FONSI clearly indicates there will be no restriction of subsistence activities in the Kantishna Hills area as a result of granting the right of way permit.

3. Denali Wilderness Centers, Ltd. (DWC)

- DWC comment #1 wants the NPS to ensure the access is for private, personal use and not for other potential commercial use in the area, such as from any development in the Rainy Creek area.

The FONSI and final ROW permit clearly indicate the access would be for private, non-commercial uses only.

- DWC comment #2 indicates overland access provides adequate access, so DWC contends the Glen Creek landing strip should be reclaimed as indicated in the NPS EA of 5/01.

The NPS EA for Reclamation of Mined Lands Program, Denali National Park and Preserve, May 2001, states the recommended action for Upper Glen Creek on pages 29-30:

Once the NPS acquires this property, the entire upper drainage of Glen Creek should be reclaimed as one large project, where reclamation is required almost to the stream headwaters. Even outside the floodplain, there are several access roads that have recently been used by heavy equipment and may require stabilization and re-planting. This is also the case for a switchback road on the side of a steep slope above the West Fork (Silver King Claims #16 and 17 and for the landing strip near the main camp, claim #6.) When reclamation and restoration of upper Glen Creek nears completion, the access road from Moose Creek should be restored, beginning at the upper end.

The NPS commits to restoring the upper Glen Creek landing strip in the EA and finding of no significant impacts (FONSI), but not the lower Glen Creek Landing strip. Use of the lower Glen Creek Landing strip reduces impacts to hikers, backpackers, fish, and aquatic

habitat along the first 6 miles of the Moose Creek Road from the Denali Park Road because the number of vehicle fordings on that part of Moose Creek would be avoided. The NPS therefore prefers to keep the lower Glen Creek Landing strip available for the applicants' access to Spruce Creek when it is reasonable for them to use it.

- DWC comment #3 asked if new road construction along Spruce Creek would be justified for access to recreational cabins in summer. Why not have the owners walk the last ½ mile to the cabins from a parking location on lower Spruce Creek?

The applicants requested vehicle access to their property to transport their families, friends, and supplies to the cabins, including propane tanks to fuel cooking stoves and space heaters. The mining access roads have existed in this area for several decades and the applicants have used them for the last five years. The NPS requested and the applicants agreed to reroute small portions of the vehicle access route to avoid the stream channel. This minor new construction is a reroute of a previous vehicle access route. Other landowners in the Kantishna area are not required to walk over ½ mile to their facilities. For these reasons the NPS finds it would be unreasonable and inequitable to require these landowners to walk. See also response to DCC #9.

- DWC comment #4 asks what criteria were used to allocate 30 of the 100 Denali Road passes for Kantishna inholders, other than lodge operators, to these two inholders.

The same criteria were used to allocate 15 Denali Park Road vehicle permits for each applicant's access request as for other Kantishna inholders. These allocations are based on the applicants' requests and negotiated with the park superintendent, pursuant to new park road regulations at 36 CFR 13.63(d). The Superintendent may negotiate annually with each inholder for adequate and feasible access to their property. The number of Denali Park Road permits for an applicant may be adjusted by the Superintendent based upon past use and projected needs.

The 1986 GMP and Land Protection Plan recognized that ANILCA Title XI requests for access would need to be addressed on a case by case basis in the future. The Entrance Area and Road Corridor Final EIS (NPS 1996) states on page29:

Up to 1,360 total vehicles could travel to and from Kantishna, comprising 13% of all traffic under the GMP limits. This total includes other Kantishna traffic (individual inholders, mining claim owners, and others), which has averaged less than 100 vehicles per year recently and could be expected to decline slightly as former mining claims are acquired by the federal government.

- DWC comment #5 addresses crossing private land. DWC owns the corner of North Face Lodge property, which the Spruce #4 inholders would need to use to drive to their property from the Denali Park Road. DWC maintains the NPS cannot issue a right of way over private property until a prescriptive easement has been adjudicated. DWC feels a final decision on access to Spruce #4 should not be made until a clear

understanding and resolution of potential legal issues is resolved with regards to crossing private land.

The NPS recognizes the Moose Creek access route crosses the northwest corner of the North Face lodge property, and the NPS does not propose to authorize access over the private property. The NPS only proposes to authorize access over public property where or near such access has occurred in the past.

4. Denali Citizen's Council (DCC)

- DCC comment #1 states concern for the number of motorized stream fords in the preferred alternative and that the draft EIS for Spruce Creek access did not even contemplate an alternative with so many stream fords. Though far fewer and smaller vehicles would ford Moose Creek and its tributaries, DCC feels the potential impact should be recognized and addressed with specific monitoring and mitigation plans.

The Spruce Creek Draft EIS for access to construct and operate a lodge (NPS 1999) included the applicants' original request to use and improve the Moose Creek access road and the Glen Creek landing strip. Their proposal included at least 32 stream fording sites. The NPS believes the present request for private personal access, requiring the applicants to use the existing access route and constructing short stretches of new road to move vehicles out of the streambed of Spruce Creek would provide them adequate access while reducing impacts to the park. The proposal would eliminate 6 stream crossings and reduce driving in the bed of Spruce Creek by about 1,600 feet. The EA specifies that the access would be limited to two vehicles each before Memorial Day weekend to protect fish habitat, which may not occur due to overflow ice often along the present access route until early June. The NPS is interested in additional specific mitigation ideas to reduce impacts to aquatic resources and fish habitat in Moose Creek and its tributaries. The applicants would be required to satisfy the requirements of an ADFG fish habitat permit, and the NPS would enforce any measures in the permit to protect fish habitat. The NPS will specify in the final ROW permit that a monitoring fee would be charged to monitor the road construction and results of any future maintenance of the access route to ensure the terms and conditions of the permit are met.

- DCC comment #2 addresses future ownership. DCC would like to see a copy of the purchase agreement, and DCC asks if the NPS has a plan to make purchase offers periodically to the owners of Spruce #4 parcels.

The DCC can obtain a copy of the final recorded deed for Spruce #4, which specifies the terms and conditions for the property uses including the NPS right of first refusal to match any new offer for the property. (A copy can be obtained from the Recorder's Office or the NPS Land Resources Program Center in Anchorage.) The NPS would make offers to purchase Spruce #4 if the owners signaled an interest in selling their remaining property, which they have not done.

- DCC comment # 3 addresses perpetual motorized access in Moose Creek and the associated impacts to the soil, plants, and animal communities. Though the permit is revocable for cause and is up for renewal every 5 years, the ROW permit leads the NPS away from the NPS policy to reclaim the Moose Creek area.

First and foremost, the NPS is required to provide the owners of inholdings adequate and feasible access to their property pursuant to ANILCA Title XI and implementing regulations. NPS plans such as the GMP and the Front Country EIS recognized this provision. The Cumulative Impacts of Mining EIS (NPS 1990) found mining incompatible with the purposes for DENA, and stated the NPS would acquire from willing sellers all patented and unpatented mining claims. In the interim, the NPS would process operating plans per its regulations, including reclamation plans. This EIS and record of decision (ROD) also specify the NPS would reclaim mined areas owned in fee simple. The Mining Reclamation EA (NPS 2001, page 28) states the NPS would use heavy equipment to "... reshape tailings piles fill in large linear pits, and stabilize former roads. Revegetation work will be adequate along several of the former tracks that are no longer used, assuming these tracks are stable. The main route should be retained for pedestrian visitor use and inholder use (Rainy Creek, Glen Creek, Spruce Creek)." At present the NPS does not yet hold in fee simple unpatented mining claims along Moose Creek or the two parcels at Spruce Creek. Though it is clearly the NPS policy and intent to obtain and reclaim mining claims in the park that the NPS holds in fee simple, such is not yet the case along Moose Creek or Spruce Creek.

- DCC comment #4 asks if ANILCA Section 1110(b) requires the NPS to provide access that is contrary to NPS intent for Kantishna.

ANILCA Section 1110(b) requires the NPS to provide adequate and feasible access for the inholders, and NPS plans for access to Kantishna are consistent with the law. The NPS recognized the need to process inholder access requests in the 1986 General Management Plan and Land Protection Plan.

- DCC comment #5 states the NPS must have monitoring criteria to protect stream resources and associated habitat and wildlife before a ROW permit is issued.

An authorized annual monitoring fee and annual land use rental fee would enable the NPS to monitor the ROW use and impacts to park resources. The ROW permit specifies the applicants need to obtain all other applicable federal and state permits. This would include a USACE Clean Water Act Section 404 permit for wetlands fill, an ADEC Clean Water Act Section 401 Certificate of Water Quality Assurance, and an ADFG Fish Habitat Permit. The NPS will enforce the conditions attached to these associated permits to assure protection of aquatic, fish, and wildlife resources and their habitat along the stream corridors.

- DCC comment #6 suggest mitigation ideas to protect grayling populations in the North Fork of Moose Creek and grayling spawning habitat. DCC suggests critical habitat in Moose Creek should be mapped relative to stream ford locations, and that

numbers and timing of vehicle fordings should be adjusted to protect grayling spawning and rearing grounds.

See responses to DCC comments #1 and #5.

- DCC comment #7 states the number of vehicle trips up the North Fork of Moose Creek (up to 60) is excessive and questionably permissible by ADFG. DCC feels the determination of a preferred alternative is premature without ADFG authorization.

The NPS would require the permittees to meet ADFG Title 16 of the Alaska State Statutes to protect fish and their habitat. The AK comment letter indicates ADFG has been working with the inholders and NPS to assure Title 16 permit requirements would be met. ADFG representatives have indicated verbally to the NPS that the proposed access would not pose a serious threat to fish habitat and that a Title 16 permit with appropriate mitigation measures could be issued quickly after a final decision is rendered by NPS.

- DCC comment #8 states the EA is vague in terms of the type and size of 4WD vehicle to be authorized by the access ROW. DCC is concerned such vehicles could have tracks or be ORVs that could easily wander off the specified ROW.

The NPS prefers lighter, quieter vehicles with lower pounds per square inch (psi) be used, when possible. For this reason the NPS did not specify the exact type and size of vehicles. No vehicles are authorized under this permit to travel anywhere except in the authorized ROW corridor. The use of ORVs in locations other than established roads and parking areas is prohibited by 43 CFR 36.11(g)(1). Violations of this provision and damages to park resources would be grounds for a citation.

- DCC comment # 9 asks why the NPS accepts a diversion of access along Spruce Creek away from the streambed and whether this is done to protect aquatic resources or to facilitate access with larger vehicles.

The bypasses around Spruce Creek were conceived to protect aquatic resources and wetland functions, not to facilitate larger vehicles. The NPS requested the applicants revise their access route to avoid direct driving in the stream channel of Spruce Creek. The applicants are interested in this reroute because overflow ice and floods have rendered much of the stream bed route impassable. The purpose is to protect streambed resources and to be consistent with NPS policies in Director's Order 77-1 "Wetland Protection" and to provide adequate and feasible access to the private property.

- DCC comment #10 notes the EA addresses access from Park Headquarters to Spruce #4, but the draft ROW permit only addresses that portion above the first ford of Moose Creek.

The 1996 Entrance Area and Road Corridor EIS addressed Denali Road permits and public access from the Savage Bridge to Kantishna as codified in regulations at 36 CFR 13.63. This EA addresses all of the potential impacts in the park from the access

proposal, but the ROW permit focuses primarily on that portion which is not available to the general public for motorized access. The final ROW permit will address the applicant's access across federal lands from the Denali Park Road to their private property at Spruce #4.

- DCC comment #11 states the public access they wish to see protected is pedestrian access, particularly the first three miles from the Denali Park Road to the first ford of Moose Creek. This area is important for hiking, photography, bird watching, and berry picking. Because of potential user conflicts along this section of access, DCC recommends the NPS require the inholders to drive that portion of the road during the summer months June and July between 6 PM and 7 AM.

The NPS recognizes the potential for pedestrian and motorized access along the first three miles of the Moose Creek access route at the same time, but the levels of predicted use are not expected to produce conflict. The NPS will take the DCC mitigation idea into consideration in managing access for all users in the Kantishna area.

- DCC comment #12 asks if the applicants combined presently have 40 vehicle permits and if this proposal would allocate 30 of 100 vehicle permits for other Kantishna inholders other than lodge operators.

Yes, the existing temporary access permits grant each applicant 20 Denali Park Road vehicle permits for a total of 40. The proposed access permits would grant each permittee 15 road passes for a total of 30. See the answer to DWC # 4 for the discussion on allocation of 30 road passes out of a presumed 100 limit.

- DCC #13 asks whether sufficient gravel could be obtained to accomplish the road diversion along Spruce Creek, and who would maintain the Glen Creek landing strip and portions of the Moose Creek Road. Lastly DCC asks if NPS plans to reclaim the Moose Creek bed should the inholders sell their properties.

See also response to NPCA #15. The NPS believes adequate gravel to accomplish the rerouting of the road is available along the proposed ROW route. The EA describes ample gravel sources along the ROW route and corridor on pages 3-3 to 3-4. The EA prescribes the overlay method with geo-textile matting on page 2-4. With geo-textile mat placed upon the tundra, the NPS estimates only 205 cubic yards of gravel would be needed to reroute the access road out of the active channel of Spruce Creek. The NPS estimates that about 300 cubic yards of gravel could be obtained from mining tailings and gravel banks through which the ROW would traverse in addition to the use of gravel reserves from the private inholdings on Spruce #4. Cut and fill operations are a standard practice in ROW corridors.

The ROW permit would allow the applicants to maintain the Glen Creek landing strip in its present condition. No new material would be needed; the landing strip would be smoothed and crowned for drainage with existing material on the landing strip. No new construction or maintenance of the Moose Creek road is contemplated other than

periodic brushing and manual movement of large boulders from the passageway by the applicants. No road or landing strip work would be allowed without prior written permission from the Superintendent.

The NPS would reclaim the upper Moose Creek area but retain the mining access route for pedestrian access if it acquires fee simple ownership of all remaining mining claims and inholdings in the area. See NPS 2001 Mining Reclamation EA, pages 8 and 28.

- DCC #14 asks if aircraft-associated impacts with access to the Glen Creek landing strip can be controlled under any alternative. DCC sees no limits in a draft ROW permit for the number of airplane and helicopter landings and takeoffs at the Glen Creek landing strip. They are concerned the owners could use the Glen Creek landing strip without limitation for ferrying and storing gear. They also ask if the owners would need to obtain permits for hiking across backcountry unit #41 between the landing strip and their property at Spruce #4.

DCC is correct in noting the number of landings and takeoffs at the Glen Creek Landing strip by airplanes is unlimited under the draft ROW permit and ANILCA 1110(a) and 1110(b). The NPS thinks the number of vehicle permits between the landing strip and Spruce #4 effectively limits the number of airplane trips. Pursuant to specifications in the ROW permit for access across the Denali Park Road the permitted vehicles would be no more than 22 feet long and less than 8 feet wide. The owners are unlikely to leave gear and people at the landing strip. Helicopters are not allowed to land on park property for personal recreational uses. Helicopters could be landed on the owners' private property. Helicopters are very expensive, however, and we believe the owners are unlikely to use them extensively if at all. The owners would not need to obtain backcountry permits to hike across unit #41 unless they plan to camp overnight in the unit.

- DCC comment #15 addresses vehicle parking and storage in the Kantishna area “as directed by the Superintendent.” DCC feels parking by these and other inholders, who may wish to use the shuttle bus to Kantishna and then drive their private vehicles to their property, could become a problem in the Kantishna area. DCC believes that parking and storage north of the North Face Lodge or anywhere else between the park road and the first ford is inappropriate. DCC maintains this is not a [ANILCA] Title 1110(b) matter, but should be addressed as part of the entire inholder access issue.

The applicants originally requested parking and storage areas between the park road and the first ford of Moose Creek because they and the NPS thought smaller ATV-type vehicles would be preferred rather than 4WD pickup trucks along Moose Creek. The owners discovered small ATVs were unsafe for fording Moose Creek and preferred to use pick-up trucks or similar larger vehicles only. The Park Superintendent will eliminate overnight parking between the North Face Lodge and the first ford of Moose Creek. The Park Superintendent will select a location in the Kantishna area that would have the least impact to park resources and other users. The NPS encourages the applicants and other Kantishna landowners to use the shuttle bus as most other park visitors do.

- DCC comment #16 requests the NPS to make available the public comments and NPS responses to comments on the draft EIS for the Spruce Creek Access request to construct and operate a lodge. DCC maintains this public record provides pertinent historical background information on access to Spruce #4 and new road construction in the Kantishna area. DCC recommends these comments be made available as an appendix to this EA or as another NPS document, cd, or other digital document.

The NPS can make available to those parties that request them the public comments on the draft EIS for the Spruce Creek Access application to construct and operate a lodge. Because the application was withdrawn before the final EIS was completed, the NPS did not finalize responses to those comments.

- DCC comment #17 suggests a programmatic EA substitute for this EA to address a broader array of inholder access issues in the Kantishna area described above. DCC recommends temporary access permits be provided in the interim.

The NPS does not believe a programmatic EA is needed to address access permits in the Kantishna area. The NPS has already completed various programmatic NEPA documents for the area including the 1986 GMP, the 1990 Cumulative Impacts of Mining EIS, the 1996 Entrance Area and Road Corridor DCP/EIS, and the Mining Reclamation EA. The NPS has plans to complete a comprehensive management plan and NEPA compliance for the Kantishna area in the near future, which would address access and use issues among others.

The NPS would like to complete this access ROW to provide adequate and feasible access and avoid extensive driving in the bed of the Spruce Creek. Pursuant to regulations implementing ANILCA Section 1110b the NPS has 9 months to complete an EA or draft EIS for access after an application is filed. The applicants filed their applications with the NPS at the end of February 2002. After the EA is completed, the NPS has up to 4 months to make a decision, considering all other permit needs. This NPS ROW permit will be issued with a term of 5 years. The ROW permit will contain a provision for amendments and renewal of the permit to be consistent with a new plan for the area, in compliance with the rights and requirements of ANILCA Title XI.

5. National Parks and Conservation Association (NPCA)

- NPCA comment #1 states this EA should be a programmatic EA or EIS to evaluate the cumulative environmental impacts of the use of Moose and Spruce Creek route for motorized access. NPCA maintains this access route is not part of any Denali National Park and Preserve transportation plan or the GMP. NPCA is concerned the pioneer mining access route would become part of the park's official transportation infrastructure through this personal access permit.

See response to DCC #17, which addresses the issue of a programmatic NEPA document for access in the area. The Spruce Creek access EA addresses cumulative impacts of this access request. The Denali National Park and Preserve General Management Plan

(GMP) addresses access in the park (pages 31-41), including access to inholdings (page 34.) The GMP notes that access is guaranteed to nonfederal land under ANILCA Section 1110b and regulations at 36 CFR 36.10. The Moose Creek/Spruce Creek access route would be for pedestrian and designated inholder vehicle access only; on a case by case basis the route is available for motorized access by others if they have a valid previous use such as to mining claims or for subsistence uses.

- NPCA comment #2 asks how many other parties would be permitted to use all or part of the Moose Creek/Spruce Creek access route and if they have pending applications for access. NPCA understands one of the applicants has 8 acres of land in Rainy Creek and asks if that owner would be permitted to drive guests from a future commercial development at Rainy Creek to his property at Spruce Creek?

This ROW permit does not authorize the owners of property at Rainy Creek and Spruce Creek motorized access to transport guests from a future theoretical development at Rainy Creek to Spruce Creek. Access to this property at Spruce Creek will be only for personal non-commercial purposes.

- NPCA comment #3 states the appropriate level of NEPA compliance would be an EIS, not an EA, because NPCA believes the impacts to park resources would be significant.

The NPS disagrees that an EIS is needed for this access request. As documented in the EA, the NPS does not believe any of the identified impacts to park resources or other users in the area would be significant.

- NPCA comment #4 states motorized access along, across, and in the bed of Moose and Spruce Creeks would have a significant negative impact on park aquatic and riparian resources. The comment indicates over 7,000 feet of new road construction would occur along Spruce Creek and dozens of stream crossings would occur along the first 6.7 miles of the access up Moose Creek.

The NPS agrees the proposed access and alternatives would result in negative impacts to aquatic and riparian resources, but we disagree those impacts would be significant. The low level of traffic and the realignment of that part of the access along Spruce Creek to avoid extended instream travel would result in fewer direct impacts to aquatic resources and minor impacts to wetlands and riparian resources. New road construction along Spruce Creek would be about 0.3 miles or 1,700 feet (not over 7,000 feet). The first 6.7 miles of access up the Moose Creek valley would involve 15 stream crossings, not dozens.

- NPCA comment #5 states the no-action alternative in the EA is an action alternative that provides for continued motorized access and incorrectly uses ANILCA Section 1111 as a repeated temporary access permit.

See response to DWC #3. The NPS believes a ROW permit should be issued with terms and conditions to protect park resources and values while providing adequate and

feasible access to an inholding as mandated by ANILCA 1110b and its implementing regulations. The NPS disagrees with NPCA that the no-action alternative must be denial of a ROW permit for motorized access because NPS Director's Order #12 for NEPA policies Section 2.7 C. 2 - No action for a project states "This would mean the proposed activity would not take place. Therefore, no action is the continuation of existing conditions and activities without a particular planning context." The proposed activity is to reroute the existing road to provide passable access, to avoid impacts to stream habitat pursuant to NPS policies and procedures, and to issue a 5-year ROW permit with terms and conditions to protect and mitigate impacts to park resources. The existing condition is the present road and access provided with temporary access permits.

- NPCA comment #6 states the NPS assumption in the EA that adequate and feasible access means motorized access to the cabin door is incorrect. NPCA states that hundreds or thousands of personal use recreational cabins and homes throughout Alaska do not have road access. NPCA states many sites are accessible only by hiking or skiing the last several miles from the nearest public roadway, landing strip or navigable waterway.

The property at Spruce #4 is marginally accessible by snowmobile in winter because of the long distance (75 miles) and overflow ice conditions on major rivers and streams between the Park's Highway and the property. The NPS believes adequate and feasible access to maintain and supply the cabins at Spruce #4 requires some form of vehicular access in summer, which has been available to these private lands for several years already and to these locations since before the park was enlarged.

- NPCA comment #7 notes that ANILCA Section 1110a authorized the use of snowmachines, motorboats, and airplanes for transportation for traditional activities and for travel to and from villages and home sites, but ANILCA Section 1110b does not specify adequate and feasible access as motorized access. NPCA asserts the NPS failed to consider adequate and feasible non-motorized access alternatives.

The NPS believes there are no adequate and feasible non-motorized alternatives that would provide access to the property for purposes of supplying, maintaining, and enjoying the private property. See also response to DWC #3 and NPCA #5 and #6 above.

- NPCA comment # 8 suggests the NPS consider an alternative that combines visitor bus access to Kantishna and hiking from there to the owners' property with an exemption from backcountry permits. If owners need to haul in large volumes of equipment or supplies, a temporary, single-use permit for motorized access could be issued.

The NPS encourages the applicants to use the Visitor Transport System (VTS) when it is feasible for them to do so. The NPS believes, however, hiking up the Moose Creek drainage with deepwater fords is not adequate and feasible for their purposes to enjoy their property for private, personal uses. The NPS and applicants originally explored a request for access by smaller ATVs and shoulder season access by 4WD pick up trucks to

supply the cabins, but the applicants found access by smaller vehicles to be unsafe. The NPS concurs with this assessment and believes trucks would be better able to stay on the designated route than ATVs during high water events or muddy conditions. The NPS believes it is inequitable and unreasonable to require these inholders to walk into their property when all other landowners in the immediate vicinity have motorized access.

- NPCA comment #9 states the NPS failed to consider an alternative involving a combination of air and non-motorized access.

The NPS encourages the applicants to use this form of access in summer when feasible. This form of access, however, does not provide adequate access for family groups and to transfer supplies and equipment to the property such as propane tanks or fuel for cabin stoves. The NPS prefers the owners use imported fuels rather than firewood for space-heating and cooking at the cabins. The applicants would use airplanes and snowmobiles for access in winter. The NPS believes it is conceivable the owners could haul supplies to their property with a combination of airplane and snowmobile access. This option, however, is still a form of air and motorized access, not non-motorized.

- NPCA comment # 10 states the EA does not adequately evaluate other uses of the proposed access route. The EA needs to comprehensively address who can use this route, by what transportation methods, and for what purposes.

The NPS disagrees with NPCA that the EA does not adequately address other uses of the proposed access route. The EA addresses impacts to other users under the following subheadings for each alternative: Public Use, Subsistence, and Cumulative Impacts to the Social and Economic Environment. These sections describe the access route as available for motorized access to Rainy Creek to other private inholdings (less than 20 trips in summer and less than 10 trips in winter), to all locations along the route by traditional subsistence users in the area (fewer than 10 trips per year), to mining claims by parties with remaining mining interests, and by the NPS for administrative and monitoring purposes. The EA estimates the potential numbers and type of vehicles for these types of uses. The general public (primarily lodge operators) has motorized and pedestrian access along the Moose Creek Road from the Denali Park Road to the first ford of Moose Creek. Backpackers commonly follow the unimproved roads into backcountry units 42 and 41.

- NPCA comment # 11 states the EA needs to consider whether the creation and maintenance of a long-term ROW would preempt the potential restoration of the Moose Creek drainage and its potential for wilderness designation. NPCA feels the issuance of the ROW permit would have a major impact on potential wilderness designation.

The EA does indicate the maintenance of the ROW would preclude some reclamation and potential inclusion of the Moose Creek drainage as designated Wilderness. The comment overstates the impact of the present proposal because a corridor along the proposed access route could be excluded from a future suitability determination or

recommendation for wilderness designation. For example, the Denali Park Road is the center of a narrow 300-foot wide exclusion within the surrounding Denali Wilderness. The EA identifies wilderness as an issue on page 1-9, describes the wilderness values of the immediate area on page 3-42 and discusses the potential direct and cumulative impacts to designated Wilderness and the potential for future wilderness designation under each evaluated alternative. See pages 4-5, 4-8, 4-18, 4-23, 4-29, 4-33, 4-41, and 4-44. The EA notes the Moose Creek valley was twice found not suitable for wilderness designation because of extensive historical mining activity and the incomplete resolution of mining claims in the area. For these reasons the NPS finds the impacts to designated and potential wilderness are negligible at this time.

- NPCA comment #12 states the EA does not adequately or accurately address impacts on natural quiet and non-motorized wilderness recreation.

The NPS disagrees. The EA identifies natural quiet as an issue on page 1-8, describes the natural sound environment on page 3-5 and addresses impacts to natural quiet for each alternative on pages 4-1, 4-9, 4-24, and 4-35. The EA goes into detail on the potential noise impacts of various motorized forms of access in the Moose Creek valley for the proposed access (pp 4-9 to 4-11).

- NPCA comment # 13 states the EA and draft permit do not adequately address the impacts of snowmachine use. NPCA maintains the use of snowmachines in Denali National Park and Preserve is hotly contested and still undecided. NPCA states in the absence of analysis of the environmental impacts of snowmachine access to Spruce #4 such use cannot be legally authorized.

The NPS draft ROW permit states on page 8, special condition 1.6 “Snowmachine access is authorized in accordance with applicable NPS and ANILCA regulations.” The NPS is referring to the recently promulgated special park regulations at 36 CFR Part 13.63 and ANILCA access regulations at 43 CFR Part 36. ANILCA special access regulations at 36.11(a) and (c) address access by snowmachines during periods of adequate snow cover and frozen river conditions. Such access is permitted for travel to and from villages and homesites and other valid occupancies [emphasis added] unless prohibited or restricted under the closure procedures at 43 CFR 36.11(h). The NPS promulgated regulations at 36 CFR 13.63(h) to address snowmobile access in the park. The rule closes the former Mount McKinley National Park to all snowmachine use. The closure does not affect the Park’s four-million-acre ANILCA additions where snowmachine use is permitted for traditional activities and for travel to and from villages and homesites, subject to reasonable regulations. Because the owners of property on Spruce Creek have a valid occupancy and the area has not yet been closed by special regulation, snowmobile access to Spruce #4, other than through the old park, is legally authorized at this time.

- NPCA comment #14 asserts the draft ROW permit does not satisfy statutory requirements to include specific measures to protect park resources. NPCA believes the phrase in Appendix D, “adequate measures ... to prevent or minimize damage to

park resources” is merely a rephrasing of ANILCA requirements under §1107, but the ROW lacks sufficient detail to analyze the chosen safeguards in the EA.

The full ROW permit statement referred to by NPCA is listed under Terms and Conditions of the Permit (10) on page 5 of the draft permit:

The Permittee shall take adequate measures as directed and approved by the Superintendent to prevent or minimize damage to park resources. This may include restoration, soil conservation and protection measures, landscaping, and repairing road/landing strips, trails, fences, etc. The Permittee shall dispose of brush and other refuse as required by the Superintendent. The Superintendent or his representative may inspect the right-of-way area as deemed necessary.

Other general and specific terms and conditions in the draft ROW permit describe actions that must be followed to protect park resources and visitors. For example, general term and condition 3) states the Permittee shall comply with all applicable State and Federal laws and existing regulations in the construction, operation, and maintenance of the road/landing strip. The EA notes on page 1-10 the applicants must obtain a CWA §404 permit for fill in waters of the USA, an Alaska DEC Certificate of Reasonable Assurance to protect water quality under CWA §401, and an ADFG Fish Habitat Permit to protect fish habitat. The EA further specifies mitigation measures to protect park resources in section 2.7. For example, the applicants would be restricted to no more than two vehicular passes during critical grayling spawning and migration periods in the month of May. The NPS and Corps of Engineers will require the applicants to lay down geo-textile matting over the tundra and other sections requiring gravel fill to protect the wetlands and permafrost and to minimize the amount of gravel needed to ensure safe vehicular passage. The NPS fully intends to incorporate these and other measures to avoid, minimize, or mitigate adverse impacts to park resources in the final ROW permit.

- NPCA comment #15 states the use of park gravel is not authorized for private road building and maintenance. NPCA notes the EA states federal laws and NPS policies permit the use of in-park gravel for park administrative functions only, and then only if acceptable park sources exist and economic factors make it impractical to import materials. Furthermore, NPCA questions whether 205 cubic yards of gravel would be adequate for the new road construction to support 4WD trucks.

See also response to DCC #13. Some gravel for this project could be supplied from the two inholdings on Spruce #4. Regulations at 36 CFR 14.6 state: “... stone and earth necessarily removed from the right-of-way in the construction of a project may be used elsewhere along the same right-of-way in the construction of the same project.” Tailings and other “stone and earth” within the proposed right-of-way would be the major or full source of the gravel needed to stabilize certain sections of the Spruce Creek bypasses. Other private gravel sources in the Kantishna area are not readily available. Furthermore, requiring the owners to haul gravel across the park road and up Moose Creek from outside sources would incur damages to the park road and Moose Creek area

that the NPS would prefer to avoid and would be prohibitively expensive. The NPS does not haul gravel the full distance of the park road for the very same reasons. The NPS thinks it is unreasonable to insist other parties do so also. The NPS also believes it reasonable and within the intent of the law to provide a modest amount of gravel from without of the right-of-way corridor for the owners' access to their property, if necessary. The NPS calculated, however, that 205 cubic yards accurately represents the gravel needs for the project because most of the wetlands and other lands where the gravel would be placed for this project would need only a modest section of gravel to provide structural strength for the proposed vehicular use.

- NPCA comment # 16 states the NPS presupposes, in the EA summary page iv, a FONSI will be issued, when a purpose for an EA is to determine whether an EIS is needed.

The EA does not presuppose a FONSI will be issued. The EA summary indicates a decision, likely a finding of no significant impact in parentheses, will be released no sooner than 30 days after release of the EA and no later than 120 days later. This statement follows ANILCA Title XI implementing regulations at 43 CFR Parts 36.6(3) and 36.7(a). The NPS agrees one purpose for conducting an EA is to determine if an EIS is needed. The NPS believes the magnitude of the potential consequences to the human environment from the proposed project to reroute access along Spruce Creek and reduce vehicle permits from the current temporary permit does not warrant an EIS. This project is much smaller than the original proposal for access to construct and operate a lodge and therefore an EIS is unnecessary.

- NPCA comment #17 states the proposed access sets a precedent for Denali and other conservation system units in Alaska where motorized access over a pioneer access trail/road/route to a private inholding like Spruce #4 is contemplated.

The NPS does not believe the access request sets a precedent because each access request must be evaluated on its own merits. This request is not the first use of ANILCA Title XI in Denali National Park and Preserve or other Alaska conservation system units.

5. Paul Shearer (PS)

- PS comment #1 states NPS management plans and the more recent EA for Reclamation of Mined Lands Program (NPS 2001, pp. 2-30 and Figure 1) combine to assure the Glen Creek Road and Lower Glen Creek landing strip should be reclaimed and returned to a state of natural conditions and processes.

See response to DWC #2.

- PS comment #2 states the EA does not provide an alternative that would allow total reclamation of the majority of Moose Creek, namely an alternative that would purchase the remaining rights on Spruce 4. PS thinks the NPS should continue to make offers to willing sellers including the costs to manage the affected area.

See response to DCC #2. The NPS attempted to purchase all of the rights from the current owners, but they were not interested in selling all of their property interests.

- PS comment #3 recommends the EA consider a modified no-action alternative without the use of the Glen Creek Landing strip. The applicants would be provided overland use of the current access road as is.

See response to DWC #2.

- PS #4 recommends the NPS preferred alternative is amended to show the NPS would incur the costs to construct the realignment of the access route around Spruce Creek rather than the applicants.

This access request is for motorized access to private property for private, non-commercial uses only. This access is not intended for general public vehicular use. The owners of property at Spruce #4 would construct the realignment of their access road along Spruce Creek and maintain other parts driven only by them. Public funds cannot be used for construction of private access.