PREAMBLE
TO THE
SUPERINTENDENT'S COMPENDIUM
2008

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

PREAMBLE

The proposed compendium was available for comment from January 1 – February 15, 2008. The following preamble addresses comments received by the park on the proposed compendium. Groups or organizations who commented are identified in the discussion.

The park received comments from the State of Alaska.

Determinations of need
The State of Alaska recommended incorporating the justification for new provisions into the compendium. The NPS agrees with this recommendation. Justifications for new compendium entries are attached as an appendix or included as a brief statement below the entry.

1.6 Compilation of activities requiring a permit
The State of Alaska recommended changing the entry recording towing a person using a parasail, hang-glider, or other airborne device to add the phrase "behind a boat." Since this phrase is not used in the regulation, the NPS is not adopting this suggestion.

2.10(d) Food storage – designated areas and methods
The State of Alaska recommended that adding a provision enabling the park superintendent to identify methods, as well as items, approved for food storage. The NPS has adopted this recommendation.

2.35(a)(3)(i)(A) Alcoholic beverages and controlled substances
The State of Alaska expressed support for maintaining consistency with local ordinances.

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK
COMPENDIUM
2008

National Park Service (NPS) regulations applicable to the protection and equitable public use of units of the National Park System grant specified authorities to a park superintendent to allow or restrict certain activities. NPS regulations are found in Titles 36 and 43 of the Code of Federal Regulations (CFR) and created under authority and responsibility granted the Secretary of Interior in Titles 16 and 18 of the United States Code. The following compendium comprises a listing of NPS regulations where the Superintendent has exercised discretionary authority to make designations or impose public use restrictions or conditions in park areas. The applicability and scope of the compendium is articulated in 36 CFR Sections 1.2 and 13.2, and 43 CFR Section 36.1.

A complete and accurate picture of regulations governing use and protection of the unit can only be gained by viewing this compendium in context with the full body of applicable regulations found in Titles 36 and 43 CFR. *Please contact Klondike Gold Rush National Historical Park, Skagway, Alaska at (907)983-2921 for questions relating to information provided in this compendium.*

TITLE 36 CODE OF FEDERAL REGULATIONS

PART 1. GENERAL PROVISIONS

1.5 Closures and public use limits

(a)(1) Visiting hours, public use limits, closures

Eating and drinking are not permitted in exhibit display areas in park buildings nor in the Visitor Center Auditorium without specific authorization from the Superintendent.

The intent is to protect exhibit displays, floor coverings, and upholstery from damages which might accompany unsupervised use.

See specific sections in this document for additional information regarding visiting hours, public use limits, and closures.

(a)(2) Designated areas for specific use or activity or conditions

See specific sections in this document for additional information regarding designated areas and conditions for engaging in certain activities.

1.6(f) Compilation of activities requiring a permit

- Scientific research, 1.5
- Collecting research specimens, 2.5
- Operating a power saw in developed areas, 2.12(a)(2)
- Operating a portable motor or engine in undeveloped areas, 2.12(a)(3)
- Operating a public address system, 2.12(a)(4)

- Air delivery, 2.17(a)(3)
- Noncommercial soliciting, 2.37
- Using, possessing, storing, or transporting explosives, blasting agents, or explosive materials, 2.38(a)
- Using or possessing fireworks and firecrackers, 2.38(b)
- Special events, 2.50(a)
- Public assemblies and meetings, 2.51(a)
- Sale and distribution of printed matter, 2.52(a)
- Grazing, 2.60(a)(1), (2)
- Residing on federal lands, 2.61(a)
- Installing a monument or other commemorative installation, 2.62(a)
- Towing a person using a parasail, hang glider, or other airborne device, 3.12(b)
- Removing sunken, grounded, or disabled vessels, 3.14(a)
- Operating a submersible, 3.19
- Commercial notices or advertisements, 5.1
- Commercial operations, 5.3
- Commercial photography or filming, 5.5
- Construction or repair of any building, structure, facility, road, trail, or airstrip on federal lands, 5.7
- Mining operations (9.9(a)) or an approved Plan of Operations (in lieu of permit))
- Backcountry camping, 13.1402
- Access to inholdings where access is not made by aircraft, snowmachine, motorboat or non-motorized surface transportation, 43 CFR 36.10(b)
- Salvaging, removing, possessing aircraft, 43 CFR 36.11 (f)(3)(ii)
- Helicopter landings, 43 CFR 36.11(f)(4)
- Off-road vehicle (ORV) use, 43 CFR 36.11(g)(2)
- Temporary access across federal land for survey, geophysical or exploratory work, 43 CFR 36.12(c)

PART 2. RESOURCE PROTECTION, PUBLIC USE AND RECREATION

2.1(a)(4) Designated areas for collection of dead wood on the ground for firewood

Dead wood on the ground may be collected for use as fuel for campfires within the park.

This requirement is intended to protect standing vegetation from use as firewood.

2.1(c)(1)-(3) Designated fruits, nuts, berries, and unoccupied seashells to harvest by hand

All edible fruits, berries, and nuts may be gathered by hand for personal consumption.

See also 13.1404) regarding the collection of mushrooms.

These limitations are intended to identify items that can be harvested for personal use without damaging the health of these species or derogation of other park resources.

2.3(d)(8) Designated areas open for fishing from motor road bridges and public boat docks

All areas are designated as open for fishing from motor road bridges and boat docks.

2.10(d) Food storage: designated areas and methods

(1) Definition: A *bear resistant container* (BRC) means an item constructed to prevent access by a bear. BRC's include—

- Items approved by the Department of Interior and Agriculture's Interagency Grizzly Bear Committee (http://www.fs.fed.us/r1/wildlife/igbc/);
- Any additional items listed by the State of Alaska, Department of Fish and Game, Division of Wildlife Conservation (http://www.wildlife.alaska.gov/aawildlife/containers.cfm#lightweight), with the concurrence of the Superintendent; and
- Items or methods approved by the Superintendent.

(2) Throughout the park, all food (except legally taken game) and beverages, food and beverage containers, garbage, harvested fish and equipment used to cook or store food must be stored in a bear resistant container (BRC) or secured—

- In NPS provided bear boxes in Chilkoot Trail designated camp areas;
- On NPS provided bear poles in Chilkoot Trail designated camp areas;
- Within a hard sided building;
- Within lockable and hard sided section of a vehicle, vessel, or aircraft; or
- By caching a minimum of 100 feet from camp and suspending at least 10 feet above the ground and 4 feet horizontally from a post, tree trunk or other object on a line or branch that will not support a bear's weight.

(3) This regulation does not apply to—

- Food that is being transported, consumed or prepared for consumption; and
- Clean dishes and cooking equipment free of food orders.

The intent of these designations is to prevent bears and other wildlife from obtaining and habituating to food and garbage, thus protecting wildlife and park visitors alike. We strongly recommend that dishes and cooking equipment be securely stored; but clean and odor free items are not required to be stored in secure containers. Ice chests and coolers, tents, dry bags or stuff sacks, plastic packing boxes (Totes, Action Packers, etc) and unmodified kayaks are not generally approved as BRC. The park provides bear poles and/or storage lockers at each campsite along the Chilkoot trail.

2.13(a)(1) Fires: designated areas and conditions

Wood fires are permitted in the provided fire rings in the Dyea Campground or the stoves provided in warming shelters at Finnegan's, Canyon City, Pleasant and Sheep Camp warming shelters. All trash (tin foil, burnt food, glass, cans) must be removed from the fire site after use.

These requirements are intended to ensure that wood sources are not depleted, to minimize the risk of human caused wildfires, and prevent the accumulation of trash in fire rings and stoves.

2.14(a)(8) Sanitation: human waste in developed areas

Restrooms are provided in Skagway and outhouses at the developed areas in Dyea (campground and picnic area, Chilkoot Trailhead, Slide Cemetery, and Dyea Town Site).

This requirement is intended to ensure that proper disposal of human waste occurs in frequently visited public areas.

2.14(a)(9) Sanitation: designated areas for disposal of human waste in undeveloped areas

Outhouses are provided at the designated backcountry campsites; otherwise in cat-holes at least 100 feet from a fresh water source or hiking trail.

This requirement is intended to ensure that proper disposal of human waste occurs in the backcountry to protect water quality and visitor safety.

2.19(a) Winter activities on roads and in parking areas: designated areas

All roads and parking areas open to motor vehicle traffic are open to skiing, snowshoeing, sledding and other similar winter sports.

2.21 Smoking

All park offices and visitor facilities are closed to smoking.
Smoking is prohibited within 100 feet of the park fuel storage facilities.

These restrictions are intended to protect public safety from fire or explosion around fuel storage facilities.

2.22 Property: leaving property unattended for 24 hours

Chilkoot trail user vehicles may be left parked at the designated overnight parking area near Dyea Ranger Station while hiking the trail.

The intent is to allow hikers to leave their vehicles at the trailhead in excess of the 24-hr property restriction.

2.35(a)(3)(i)(A) Alcoholic beverages and controlled substances

It is unlawful for any person to use or consume any alcoholic beverage on federally owned property open to the public within the business district of the city, except those premises covered by a liquor control license issued by the state authorizing the sale and consumption of alcohol within those premises. "Business district" is defined as the area located between First Avenue and Seventh Avenue from Spring Street west to State Street.

2.51(e) Public assemblies/meetings: designated areas for public assemblies

The Superintendent may issue a permit (subject to additional conditions) for public assemblies in the areas designated in Attachment 1a and 1b. In Skagway the area of assembly shall not exceed a 500 sq.ft. portion of the lawn west of the Pantheon Building, or a 500 sq.ft. portion of the lawn at the northwest corner of 5th Avenue and Broadway.

In Dyea the area of assembly shall not exceed an area of 500 sq.ft. in designated day-use picnic site.

The permit requirement is intended to ensure assemblies can occur, but with minimal impact on park visitors and activities.

2.52(e) Sale and distribution of printed matter: areas designated for such use

The Superintendent may issue a permit (subject to additional conditions) for outside distribution of printed matter in the areas designated in Attachment 1a. The designated area for distribution is restricted to the boardwalk adjacent to the exterior southeast corner of the visitor center building, not to exceed an area of 10 by 6 feet. The activity may not impede through-access for visitors using the boardwalk.

The permit requirement allows distribution of printed matter with minimal impact on park visitors and activities.

2.62(b) Memorialization: designation of areas for scattering ashes

All areas of the park are open to scattering of ashes without a permit, except for campgrounds, roads, picnic areas and other park developed areas.

PART 3. BOATING AND WATER USE ACTIVITIES

3.12(a) Water skiing: designated waters

No areas designated open.

3.14(a) Conditions for removing sunken, grounded, or disabled vessels

A permit is required from the Superintendent before sunken, grounded, or disabled vessels may be removed from the park; violation of the terms and conditions of the permit is prohibited.

This requirement allows the Superintendent to establish terms and conditions for salvage operations as necessary to protect resources, provide for public safety, and minimize impacts on visitors.

PART 4. VEHICLES AND TRAFFIC SAFETY

4.11(a) Load weight and size limits: permit requirements and restrictive conditions

Vehicles over 26 feet are restricted from travel across federal lands in Dyea, except as otherwise specifically approved in advance by the Superintendent.

The restriction on vehicle length is intended to preserve the safety of other drivers, pedestrians, equestrians, and bicyclists on the unpaved, narrow, winding roads which have restricted sight-distances, clearances for parking, and turning radii.

4.21(b)-(c) Speed limits: designation of a different speed limit

The park road between Dyea Road and Nelson Slough is limited to a maximum speed of 15 mph.

A reduced speed limit near Dyea is for public safety. Pedestrians and bicyclists often use the roadway and visibility is limited due to road design and vegetation.

4.31 Hitchhiking: designated areas

All areas are open to hitchhiking.

KLONDIKE GOLD RUSH SPECIAL REGULATIONS

13.1402(a) Klondike Gold Rush: designated camping areas

Camping is authorized in following areas pursuant to a permit:

- Dyea Campground
- Finnegan's Point Campground
- Canyon City Campground
- Pleasant Camp Campground
- Sheep Camp Campground

13.1402(b) Klondike Gold Rush: camping permit conditions

Dyea Campground – Between the Memorial Day and September 5 all campers must register. Campsite occupancy must be limited to two cars or four motorcycles, and eight persons.

All Chilkoot Trail Backcountry Camps – Between the dates of May 30 and September 4, all campers must obtain a backcountry use permit. Campsite occupancy must be limited to two tents and/or six persons.

Registration and permit requirements are intended to allow staff to accurately monitor compliance with camping conditions. Limits on the party size are intended to prevent impacts from overuse of limited facilities which are designed and provided for recreational occupancy within a prepared site.

13.1404 Klondike Gold Rush: authorization to collect mushrooms

Edible mushrooms may be gathered by hand for personal consumption. The quantity gathered by any individual must not exceed three (3) gallons during any 24-hour period.

This designation is made pursuant to a determination that such collections by hand for personal consumption will not adversely affect park wildlife nor the perpetuation of the subject species, nor otherwise adversely affect other park resources.

43 CFR, PART 36 TRANSPORTATION AND UTILITY SYSTEMS (Access Regulations)

36.11(f)(3)(ii) Established procedure for salvaging and removing downed aircraft

A permit is required from the Superintendent before downed aircraft may be salvaged and removed from the park; violation of the terms and conditions of the permit is prohibited.

This requirement allows the superintendent to establish terms and conditions for salvage operations as necessary to protect resources, provide for public safety, and minimize impacts on visitors.

This compendium is approved and rescinds all previous compendiums issued Klondike National Historical Park.

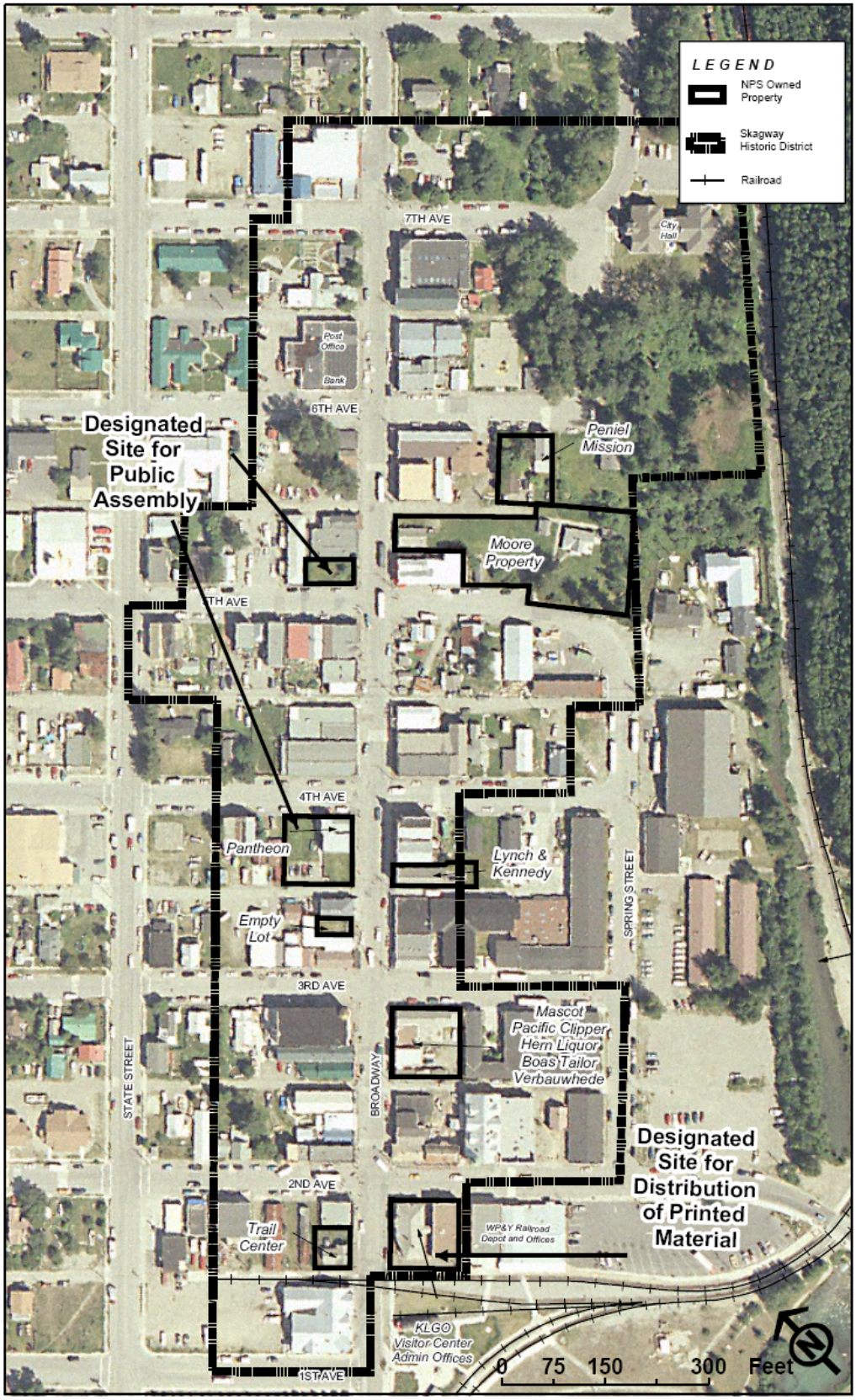
Please note the attachments below.

/s/ Susan Boudreau	**3/14/08**
Superintendent	**Date**

List of Attachments
1a. Skagway Unit area designations for public assembly and distribution of printed matter
1b: Dyea Unit area designation for public assembly

Additional Supporting Determinations:
1. Collection of fruits, nuts, berries and mushrooms
2. Food storage
3. Alcohol consumption
4. Conditions for removing sunken, grounded, or disabled vessels

Attachment 1a (36CFR 2.51e and 2.52e) – Skagway Unit area designations for public assembly and distribution of printed matter.



Attachment 1b (36CFR 2.51e) – Dyea Unit area designation for public assembly.

Additional Supporting Determinations
Attachment 1

Memorandum

To: Files, Klondike Gold Rush NHP

From: Acting Superintendent, Klondike Gold Rush NHP

Subject: Collection of fruits, nuts, berries, and mushrooms for personal use and consumption.

Pursuant to the authorities found in Title 36 Code of Federal Regulations (CFR) Sections 2.1(c)(1) and 13.68(b), NPS has determined that the collection of any edible mushrooms, fruits, nuts, and berries by hand for personal consumption will not adversely affect park wildlife, nor to the reproduction of the subject species, nor otherwise adversely affect park resources at Klondike Gold Rush NHP. This determination is consistent with the general allowance of similar collecting found in 36 CFR §13.20(b) which currently applies to most other Alaska parks areas.

With respect to mushrooms in particular, park natural resources management staff members have consulted with other biologists and NPS resource managers before advising that the only real concerns with respect to collecting are possibly aesthetic. Over-harvest potentially endangering future reproduction is not viewed as a matter of any real concern. It has been noted that the extremely large and widespread nature of the long-lived, subterranean parent fungal organism, combined with the tremendous potential for spore production and dissemination from even a very few mature mushrooms, make direct impacts on the species through over-harvest of the fruiting bodies a very remote possibility.

Limits on the quantity of mushrooms gathered are intended to help establish an enforceable approach to what is perceived as an incidental problem of possible collection for non-personal uses. Mushrooms will be removed from the list of permitted items for personal collection should new information surface in the future.

Attachment 2

Memorandum

To: Files, Klondike Gold Rush NHP, Alaska
From: Superintendent, Klondike Gold Rush NHP, Alaska
Subject: Food Storage; Determination of Need for a Restriction, Condition, Public Use Limit, or Closure

Pursuant to Title 36 of the Code of Federal Regulations, § 1.5 (c) and 2.10(d), as Superintendent I have determined that in order to protect public safety and prevent adverse impacts to wildlife, certain conditions on storage of food, garbage, lawfully taken fish or wildlife, and equipment used to cook or store food are necessary in NPS managed areas within Klondike Gold Rush NHP.

The reasons for this restriction are as follows:

1. Wildlife in a natural ecosystem is adapted to exist on natural food sources only. Obtaining human food negatively alters behavior and nutrition of wildlife.
2. Both black and brown bears are common throughout the parklands. Bears are readily attracted to even small quantities of human food. They are very curious and intelligent, and will commonly open or enter containers, tents, and structures.
3. Bears are extremely susceptible to conditioning to human food sources. Once they have learned to associate a site or item (e.g. tent, kayak, boat, etc.) with acquisition of food, they will return to that source repeatedly for further food rewards.
4. It does not matter whether the material is fresh, dry, powered, canned, etc. Once a curious bear has obtained a positive food reward, it will return and / or continue to seek out further rewards in similar situations.
5. Any impact to nutrition may manifest itself in reduced reproductive success and life expectancy.
6. While nutritional impact on wildlife may vary depending on a number of factors, notably the percentage of the overall diet of the animal is made up of non-natural food and during what time of year, no impact is acceptable under National Park Service management policies.
7. Bears which become conditioned to human food in this area are likely to be killed by humans in defense of life or property inside the parklands or on adjacent lands.
8. Humans are at risk of injury or death when bears attempt to obtain food from tents, packs, vessels, or other similar areas.
9. The park does not consider Ursacks or Bear Vaults appropriate bear resistant containers as they have shown to be insufficient deterrents to bears gaining access to the contents.

The reasons less restrictive measures will not be effective are as follows:

1. Educational efforts regarding proper food storage and disposal of food and garbage have been undertaken by state and federal agencies in Alaska and in other western states for many years. These efforts have doubtless improved the situation and reduced wildlife/ human conflict and impacts.

2. Recognizing that variations in the environment and recreational activity require multiple food storage options, park managers have undertaken the following to assist visitors and make these conditions less onerous:

    - Park supplied bear resistant food storage containers (BRFC) are available at park headquarters.

3. Despite these efforts, park managers repeatedly encounter situations in which food or garbage is improperly stored throughout the parklands.
4. The food storage conditions imposed under this section allow for a wide variety of storage options, including free loans of portable BRFC units, to make compliance less onerous.
5. We have considered the use of the Alaska State Administrative Code 5 AAC 92.230 which reads:

A person may not intentionally feed a moose (except under terms of a permit issued by the department), bear, wolf, coyote, fox, or wolverine, or negligently leave human food, pet food, or garbage in a manner that attracts these animals. However, this prohibition does not apply to use of bait for trapping fur bearers or hunting black bears under 5 AAC 84-5 AAC 92.

- Park employees lack authority to enforce this regulation directly, and would rely on state officers. Given limited state staffing in this area and other priorities, enforcement would be severely hampered.
- If we adopted the language of the state regulation into a park condition under this section, we would unreasonably force our enforcement officers to prove "negligence" in court. The threshold we seek to enforce is lower given our specific legal mandate to protect wildlife.

6. Given the lack of complete compliance with educational efforts, the flexibility in compliance options, and the effort made by park managers to provide free equipment to promote compliance, these conditions are the least restrictive required to fulfill the parklands mission of protecting wildlife and human safety.

Attachment 3

Memorandum

To: Files, Klondike Gold Rush NHP, Alaska
From: Superintendent, Klondike Gold Rush NHP, Alaska
Subject: Alcohol consumption; Determination of Need for a Restriction, Condition, Public Use Limit, or Closure

Pursuant to Title 36 of the Code of Federal Regulations, § 1.5 (c) and 2.35(a)(3)(i)(A), as Superintendent, I have determined that the Business district of Klondike Gold Rush NHP should be closed to consuming alcoholic beverages.

The reasons for this restriction are as follows:

1. Downtown Historic Skagway receives over 900,000 visitors per year in a short five month visitor season. Up to 10,000 visitors stroll along the congested six blocks of Broadway's restored market front on any given busy ship day. The existence of multiple alcoholic sales establishments within the historic district leads to a high potential and previous occurrences of public intoxication on public lands. This behavior is deemed by NPS and the municipality of Skagway as inappropriate and not fitting within the context of tourism and Skagway's economic goals.
2. Skagway Municipal Code 9.02.010-9.02.060 (9.02) 2 (10/2007) – Consumption of Alcoholic Beverages in Public Areas currently prohibits the consumption of alcohol in public areas within a larger defined Skagway area, in which the NPS historic unit is enclosed. While this code prohibition is applicable on federal public properties within the historic unit, existing federal regulations contain no such closure, thereby eluding to a public perception that the activity is permissible on federal properties. This inconsistency has resulted in an exacerbated problem of misunderstanding and confusion for the general public.

The reasons less restrictive measures are deemed ineffective are as follows:

1. Educational efforts regarding the closure and related municipal code will be added to the park's compendium to supplement enforcement efforts and attempt to curtail prohibited behavior on public lands. It is the park's opinion that additional educational efforts through signage and personal contact would not be effective due to the inherent nature of the activity itself. In addition, the additional signing would not be in keeping with the mandatory standards for signage and interpretive design with the historic scene.
2. Currently only Skagway police enforce violations of the municipal code regarding public consumption of alcohol. NPS Rangers do not have authority to enforce municipal code and there has not been a corresponding violation of federal regulations, the NPS has been unable to assist the city with responding to these incidents. This situation results in increased call volume and pressure on the local police department to respond to instances of public consumption of alcohol on park lands.
3. For consistency purposes, the NPS has decided to use similar language as that of Skagway Municipal Code 9.02.010 – 9.02.060 (9.02) 2 (10/2007).

Attachment 4

Memorandum

To: Files, Klondike Gold Rush NHP, Alaska
From: Superintendent, Klondike Gold Rush NHP, Alaska
Subject: Conditions for removing sunken, grounded, or disabled vessels

Pursuant to Title 36 of the Code of Federal Regulations, 1.5(c) and 3.14(a), the Superintendent of Klondike Gold Rush NHP is requiring a permit before sunken, grounded, or disabled vessels may be removed from the park.

The reasons for this restriction are as follows:

- This requirement allows the Superintendent to establish terms and conditions for salvage operations as necessary to protect resources, provide for public safety, and minimize impacts on visitors.

The reasons less restrictive measures will not be effective are as follows:

- How to protect park resources, public safety, and minimize visitor impact when removing a disabled vessel needs to be addressed on a case by case basis since the circumstances involved in each incident is unique. A permit allows the park and the boater maximum flexibility to address the specific circumstances at hand when removing disabled vessels.