PREAMBLE
TO THE
SUPERINTENDENT'S COMPENDIUM
2010

LAKE CLARK NATIONAL PARK AND PRESERVE

PREAMBLE

The proposed compendium was available for comment from January 1 – February 15. 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 for the State of Alaska ANILCA Implementation Program (State AIP) and the State of Alaska Citizens' Advisory Commission (CACFA).

1.5 Closures and public use limits

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

The State commented in support of the proposed closure pending a site visit by ADFG staff. The NPS appreciates the tentative support and supports a site visit and subsequent feedback by ADFG.

2.4(a)(2)(i) Carrying, using, or possessing weapons

Both CACFA and the State AIP recommended updating the compendium entries to reflect the recent change in federal law regarding possession of firearms. The NPS agrees with this suggestion and updated the compendium.

13.50 Temporary closures and restrictions

CACFA commented that section 13.50 closure/restriction procedures supersede section 1.5 procedures.

NPS carefully considered this interpretation of NPS regulations in 2001-2002 when the NPS Alaska committed to reviewing and improving Alaska NPS compendiums. We rejected this interpretation at that time and are not persuaded that it is erroneous.

The NPS interpretation is that Section 13.50 applies when an activity authorized by Part 13 explicitly requires that closures or restrictions be implemented through section 13.50. For example, camping is allowed under section 13.25 unless "prohibited or otherwise restricted…pursuant to the provisions of 13.50." The same language also appears in section 13.40 on the taking of fish and wildlife and section 13.30 weapons, traps, and nets. A contrary interpretation would result in duplicative closure/restriction procedures. For example, if a park manager wanted to designate areas where property cannot be left unattended under section 13.45, this contrary interpretation would require the NPS to

comply with the specific procedures specified in both 13.45(c) and 13.50. Similarly, with respect to restrictions on smoking near fuel storage facilities, the contrary interpretation would require the NPS to follow both section 1.5 and section 13.50.

Statements have been made in the Federal Register that support the interpretation advanced by the State AIP and CACFA. However, more recent and more authoritative statements in the Federal Register support the NPS interpretation outlined here. One example is the 2000 rulemaking regarding snowmachine use in Denali National Park. There, the NPS stated that section 1.5 was the appropriate mechanism to implement closures to protect wildlife. The NPS interpretation avoids redundancy and enables the NPS to meet our statutory mandates to prevent impairment. Accordingly, this interpretation is preferred over other interpretations that do not.

The State AIP and CACFA interpret 36 CFR 13.50 to bar re-adopting a temporary closure that was in place at some point in prior years.

The NPS has also considered this interpretation on previous occasions, most recently in 2001-2002 when the NPS Alaska committed to reviewing and improving Alaska NPS compendiums. We rejected this interpretation for several reasons and find nothing that persuades us to the interpretation suggested by the State AIP or CACFA. The basis and reasons for the NPS interpretation follow. First, a closure that is in effect for a short defined period less than 12 months is by definition temporary. Second, closures will not be re-adopted in the future unless necessary to protect park resources and values. The circumstances governing that decision may dictate a different type of public use limit and may respond to different management needs. Third, the NPS finds nothing in section 13.50 precludes adopting a temporary closure/restriction next year, so long as the closure does not exceed 12 consecutive months. A different interpretation would hinder the NPS in protecting public safety, wildlife, and other resources should circumstances warranting a temporary closure reappear.

The NPS recognizes these temporary closures must be reviewed and either renewed or repealed annually based on current conditions. The NPS believes that recurring temporary closures at some point may lose their temporary status if reviewed and renewed annually and begin to represent conditions no longer subject to change. However, when that line is crossed will depend on the facts and circumstances surrounding the specific closure. The NPS commits to more clearly evaluating and discussing the conditions that may result in renewing or modifying temporary closures adopted under section 13.50. In addition, if a temporary closure is renewed, the NPS will discuss whether the closure is appropriate for consideration in rulemakings.

LAKE CLARK NATIONAL PARK AND PRESERVE
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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 that provide the Superintendent with 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.

The larger body of NPS regulations that do not provide discretionary authority to the Superintendent is not cited in this compendium. 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 Please contact Lake Clark National Park and Preserve, Port Alsworth, Alaska at (907) 781-2218 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

A permit is required for group sizes exceeding 15 individuals.

From May 1 through August 31, meadow north of the slough in Chinitna Bay as shown on the attached map is closed.

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
- Group sizes exceeding 15 individuals, 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))
- Cabins on federal lands, 13.100-13.188
- Subsistence use in the Park by person who does not live within the Park boundary or a resident zone community, 13.440(a)
- Using aircraft access for subsistence activities in the Park, 13.450(a), 13.450(b)(1)
- Cutting of live standing timber greater than 3 inches in diameter for non-commercial subsistence uses, 13.85(a)(1)
- 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
Superseded by 13.35(c)(4), 13.35(d), and 13.485(b).

2.1(a)(5) Designated areas and conditions for walking on, climbing, entering, ascending, descending, or traversing an archeological or cultural resource, monument, or statue

No designated areas or conditions.

2.1(b) Designated trails

No restrictions on walking or hiking.

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

Superseded by 13.35(c) and 13.485(b).

2.2(d) Established conditions and procedures for transporting lawfully taken wildlife through park areas

See also 13.40(d)(5).

2.2(e) Designated areas for wildlife viewing with artificial light

No areas designated for closure.

2.3(d)(2) Fresh waters designated as open to bait fishing with live or dead minnows or other bait fish, amphibians, nonpreserved fish eggs or fish roe

No waters are designated as open to fishing with the types of bait identified above. Other types of bait may be used in accordance with state law. Subsistence fishing by federally qualified rural residents is allowed in accordance with 36 CFR part 13 and 50 CFR part 100.

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.

2.4(a)(2)(i) Carrying, using, or possessing weapons

Individuals are authorized to possess firearms in NPS areas in accordance with applicable state and federal law. Possession of firearms is prohibited in Federally owned or leased buildings. The laws regarding discharge of firearms remain unchanged.

2.10(a) Camping: conditions and permits

Superseded in part by 13.25.

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.igbconline.org/html/safety.html);
- Any additional items listed by the State of Alaska, Department of Fish and Game, Division of Wildlife Conservation (http://www.wildlife.alaska.gov/index.cfm?adfg=bears.containers), with the concurrence of the Superintendent;

- Items or methods approved by the Superintendent.

(2) In designated areas - within ½ mile of the coast line of Cook Inlet and within ½ mile of the shore line of Telaquana Lake, Crescent Lake, Turquoise Lake, Upper Twin Lake and Lower Twin Lake – food and beverages, food and beverage containers, garbage and harvested fish must be stored in a bear resistant container (BRC) or secured—
   - 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—
   - Areas not designated in paragraph (2);
   - 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. We also recommend using BRC's in all areas of the park, but do not require it. 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 offers bear resistant containers for temporary use to the public. The containers are free of charge and can be picked up at the park's visitor center in Port Alsworth.

2.11 Picnicking: designated areas

Superseded by 13.26.

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

Campfires are authorized in all areas without a permit. All trash (foil, burnt food, glass, and cans) must be removed from the fire site after use.

2.14(a)(2) Sanitation and refuse: conditions using government receptacles

Dumping of refuse brought into the park in the NPS landfill or trash receptacles is prohibited unless otherwise authorized by the Superintendent.

This requirement is intended to ensure the refuse handled by the park is generated by activities occurring within the park.

2.14(a)(5) Sanitation: designated areas for bathing and washing

No designated areas. Unless otherwise allowed by the Superintendent, bathing and washing of cooking utensils, food and other property at all public water outlets, fixtures, or pools is prohibited.

2.14(a)(7) Sanitation: designated areas for disposal of fish remains

Silver Salmon Creek: all fish must be gutted and cleaned on the ocean beach.

In all other areas, fish remains may not be disposed on land, or in waters within 200 feet of public boat docks, designated swimming beaches, or within developed areas for reasons of public health and safety.

Fish remains may not be disposed of on either land or water within 200 feet of public boat docks or designated swimming beaches, or within developed areas for reasons of public health and safety.

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

Human body waste will either be removed as trash or deposited in cat-holes dug at least 100 feet from any surface freshwater source and at least 6 inches deep.

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

2.14(b) Sanitation: conditions concerning disposal, carrying out of human waste

Toilet paper will be burned or removed as trash.

2.15(a)(1) Areas designated as closed to pets

No designated areas. Pets must be leashed or physically restrained at all times.

2.15(a)(3) Conditions for leaving pets unattended and tied to an object

No conditions at present.

Leaving pets unattended and tied to an object is prohibited.

2.15(a)(5) Pet excrement disposal conditions

No conditions at present.

2.15(b) Conditions for using dogs in support of hunting activities

No conditions at present.

2.16 (a)-(c) Horses and pack animals

Superseded by 43 CFR 36.11(e).

Access for subsistence purposes under 36 CFR 13.460(a) supersedes this section.

2.17(a)(1) Aircraft operation

Superseded by 43 CFR 36.11(f)(1).

Use of aircraft in the Park for subsistence purposes is prohibited under 36 CFR 13.450.

2.17(a)(2) Aircraft operation near docks, piers, swimming beaches and other designated areas

No areas prohibited.

2.17(c)(1) Conditions for removing downed aircraft

Superseded by 43 CFR 36.11(f)(3)(ii).

2.18(c) Snowmobiles: designated areas for use

No areas designated for snowmachine use.
Superseded in part by 43 CFR 36.11(c).
Superseded by 36 CFR 13.460 for subsistence uses.

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

Roads and parking areas open to vehicle traffic in the winter are designated as open to winter activities.

2.19(b) The towing of persons on skis, sleds, or other sliding devices by motor vehicle or snowmobile is prohibited, except in designated areas or routes

No designated areas or routes.

2.20 Skating and skateboards

Superseded by 43 CFR 36.11(e).

2.21 Smoking

All public buildings are closed to smoking unless specifically permitted and signed as a designated smoking area. Smoking is prohibited within 100 feet of the park fuel and aviation gas storage facility.

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

2.22 Property: leaving property unattended for longer than 24 hours

Superseded by 13.45.

2.35(a)(3)(i) Alcoholic beverages: areas designated as closed to consumption

No areas designated as closed.

2.38(b) Fireworks: permits, designated areas, and conditions

No areas designated for use of fireworks.

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

All areas open to public assembly with a permit from the superintendent.

2.52(e) Sale and distribution of printed matter: areas designated for such use
All areas are open to distribution with a permit from the superintendent.

2.60(a)(3) Designated areas for grazing
Grazing of pack or saddle animals by private parties, not to exceed 14 days, is authorized without a permit. Any feed brought in must be "weed-free." Grazing in support of commercial operations is only allowed under permit from the superintendent.

These restrictions seek to lessen the impact of extended camps on vegetation.

2.62(b) Memorialization: designation of areas for scattering ashes
All areas are open to scattering of ashes without a permit.

PART 3. BOATING AND WATER USE ACTIVITIES

3.3 Permits
No permits required at present.

3.7 Personal Flotation Devices: designated times and/or activities
No designated times or activities. PFDs must be worn in accordance with 33 CFR part 175.

3.8(a)(2) Boating, prohibited operations: designated launching areas
All areas are open to launching of boats.

3.8(a)(4) Operating a vessel in excess of designated length, width, or horsepower
No designations at present.

3.8(b)(3) Operating a vessel in excess of flat wake speed in designated areas
No designated areas.

3.12(a) Water skiing: designated waters
All 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.

3.16 Swimming and wading: areas designated as closed

All areas are open to swimming and wading.

3.17(a) Designated swimming areas and beaches
No designated areas.

3.17(c) Use or possession of flotation devices, glass containers, kites, or incompatible activities in swimming areas or beaches
No restrictions at present.

3.18(a) SCUBA and underwater diving: closures and restrictions
No closures or restrictions at present.

PART 4. VEHICLES AND TRAFFIC SAFETY

4.10 Routes or areas designated for off-road motor vehicle use in Preserves
No routes or areas designated.
See also 43 CFR 36.11(g).

4.11(a) Load weight and size limits: permit requirements and restrictive conditions
No restrictions at present.

4.21(b)-(c) Speed limits: designation of a different speed limit
No designations; therefore park area speed limits of 15 miles per hour apply in the business and residential areas.

All vehicles should operate at a safe speed, especially in the Port Alsworth headquarters/residential areas.

4.30(a) Routes designated as open to bicycles
Superseded by 43 CFR 36.11(e).

4.30(d)(1) Wilderness closed to bicycle use
Superseded by 43 CFR 36.11(e).

4.31 Hitchhiking: designated areas
All areas are open to hitchhiking.

PART 5. COMMERCIAL AND PRIVATE OPERATIONS

5.7 Construction of buildings, roads, trails, airstrips, or other facilities
Maintenance of established landing strips utilizing non-motorized hand tools is not considered construction or repair and no permit is required.

PART 13. ALASKA REGULATIONS

13.25(a) Temporary closures and restrictions to camping

No closures or restrictions at present.

13.25(b) Site time limits: authorization to exceed 14 day limit at one location

No general exceptions at present.

13.25(c) Designated campgrounds: restrictions, terms, and conditions

No designated campgrounds.

13.26 Picnicking-areas where prohibited or otherwise restricted

Chinitna Bay bear viewing area - Picnicking in Chinitna Bay from Glacier spit to the NPS Ranger Cabin (2 miles east) is prohibited above the beach from June 1 thru August 30.

This restriction is intended to minimize the risk of negative human/bear interactions and prevent bears from associating food with the bear viewing area.

13.30(b) Temporary closures or restrictions to carrying, possessing, or using firearms

There are no additional restrictions.

13.35(d) Collection of dead standing wood: areas designated as open and conditions for collection

No designated areas.

13.35(f)(1) Natural features: size and quantity restrictions for collection

No restrictions at present.

13.35(f)(2) Natural features: closures or restrictions due to adverse impacts

No closures or restrictions at present.

13.40(e) Temporary closures or restrictions to the taking of fish and wildlife

No closures at present. See applicable State of Alaska hunting regulations. Sport hunting is prohibited in Lake Clark National Park. See 50 CFR 100.26 for applicable subsistence hunting regulations.

13.45(b)(1)-(6) Exceptions to unattended or abandoned property

Superintendent authorizations for exceptions for unattended or abandoned property are made on a case by case basis. Contact park headquarters for more information.

13.45(c) Designated areas where personal property may not be left unattended for any time period, limits on amounts and types, manner in which property is stored

No designated areas.

13.50(h) Facility closures and restrictions

No restrictions at present.

13.122 Established conditions for removal of cabin for which a cabin permit has been denied, expired, or revoked

No conditions established at present (may require access permit).

13.160 Designated existing cabins, shelters or temporary facilities that may be shared for subsistence uses without a permit

No designations at present. All subsistence use requires permit from superintendent.

13.166 Established conditions and standards governing the use and construction of temporary structures and facilities for subsistence purposes, published annually

No conditions or standards established at present.

13.170 Designated cabins or other structures for general public use

No designations; however, all NPS cabins, not otherwise under NPS permit, are open for short-term public use (up to 14 days per year). NPS ranger station cabins are excluded.

13.172 Established conditions and allocation system to manage the use of designated public Not applicable.

13.188(b) Established conditions for removal of temporary facility used in excess of 14 days

Individuals must remove facility, all personal property, and return the site to its natural condition.

These conditions are intended to protect the park from impacts to vegetation and soil and to ensure that personal items are not left in the park.

13.460 Closures or restrictions to the use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses

See also 36 CFR 2.16, 2.17, 2.18, 3.6, 4.10, 4.30; 43 CFR 36.11(c)-(e).

13.485(a)(1) Permit specifications for harvesting standing timber greater than 3" diameter for subsistence purposes (house logs & firewood)

The superintendent may allow subsistence harvest of trees greater than 3" subject to the terms and conditions of a permit issued by the superintendent.

The above restriction serves to minimize impact to park resources and protect against overharvest.

13.485(a)(2) Restrictions on cutting of timber less than 3" in diameter for subsistence purposes

Stumps shall be 8 inches or less above the ground.

The above restriction is intended to make cut stumps visually blend in with the surroundings while minimizing safety hazards associated with timber harvest.

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

36.11(c) Temporary closures to the use of snowmachines for traditional activities

No closures at present.
See also 2.18.

36.11(d) Temporary closures to the use of motorboats

No closures at present.
See also 3.3, 3.6.

36.11(e) Temporary closures to the use of non-motorized surface transportation

No closures at present.
See also 2.16, 3.3, 3.6.

36.11(f)(1) Temporary closures to landing fixed-wing aircraft

No closures at present.

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 NPS lands; 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.

36.11(g)(2) Use of off-road vehicles (ORV) on existing trails

No designated trails. See also 4.10.

This compendium is approved and rescinds all previous compendiums issued for Lake Clark National Park and Preserve.

March 12, 2010

Superintendent

3/12/2010

Concurrence by the Regional Director **Date**

Attachment: 2.10 Food Storage Determination
3.20 Water skiing Determination
3.14(a) Conditions for removing sunken, grounded, or disabled vessels
1.5 Closures and public use limits at Chinitna Bay

Determination of Need for a Restriction, Condition, Public Use Limit, or Closure

Subject: Food Storage

Pursuant to Title 36 of the Code of Federal Regulations, 1.5 (c) and 2.10 (d), the Superintendent of Lake Clark National Park and Preserve has determined that in order to protect public safety and prevent adverse impacts to wildlife, conditions are placed on storage of food, garbage, lawfully taken fish or wildlife, and equipment used to cook or store food throughout the park.

The reasons for this restriction are as follows:

1. Wildlife in a natural ecosystem is adapted to exist on natural food source. Obtaining human food may adversely affect behavior and nutrition of wildlife.
2. Both black and brown bears are common throughout the parklands and 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 may 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.

Determination of Need for a Restriction, Condition, Public Use Limit, or Closure

Subject: Water Skiing

Pursuant to Title 36 of the Code of Federal Regulations, 3.20(a), the Superintendent of Lake Clark National Park and Preserve has determined that it is reasonable to allow water skiing especially considering the very small scale at which this activity currently exists.

The reasons for this opening are as follows:

1. Pursuant to Title 43 of the Code of Federal Regulations 36.11(d) motor boats may be operated on all area waters, except where such use is prohibited or otherwise restricted. At present there are no restrictions on motorboats.
2. The minimal amount of water skiing that currently occurs is limited to Lake Clark and more specifically Hardenburg Bay near the village of Port Alsworth.
3. Presently water skiing is limited by the cold water temperatures of Lake Clark to a few hot sunny days mostly in June or July.
4. The most likely adverse effects of waster skiing would be visitor use conflict or possible adverse impacts on nesting waterfowl. At present the NPS has no data on negative impacts to nesting birds nor has the NPS received any comments on negative impacts to other user groups.

Determination of Need for a Restriction, Condition, Public Use Limit, or Closure

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 Lake Clark National Park and Preserve 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.

Determination of Need for a Restriction, Condition, Public Use Limit, or Closure

Subject: Closures and public use limits

Pursuant to Title 36 of the Code of Federal Regulations, 1.5(a)(1)the Superintendent of Lake Clark National Park and Preserve has determined:

A permit is required for group sizes exceeding 15 individuals.

The reasons for this restriction are as follows:

1. Remote areas that have not been naturally hardened are susceptible to accelerated degradation from large groups.
2. Large groups visiting the park has resulted in impacts to pristine environments from trampling vegetation, compacting soils, improper human waste disposal, and gathering downed and dead wood.
3. Requiring a permit will enable large groups to enjoy the park in a manner consistent the protecting park resources. This process will help groups select appropriate locations for their activities, ensure groups receive information on Leave-No-Trace techniques and NPS regulations, and allow for conditions to minimize impacts to park resources.

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

1. Unregulated large groups tend to have unacceptable impact to park resources.
2. Educational efforts regarding Leave No Trace and techniques to minimize group impacts in sensitive habitats have not been fully successful. In some sensitive habitats degradation continues to expand with large group size.

Determination of Need for a Restriction, Condition, Public Use Limit, or Closure

Determination of Need for a Restriction, Condition, Public Use Limit, or Closure

Subject: Food Storage: designated areas and methods

Pursuant to Title 36 of the Code of Federal Regulations, 2.10(d) the Superintendent of Lake Clark National Park and Preserve has determined:

In order to protect public safety and prevent adverse impacts on wildlife, Crescent Lake will be added to the list of lake shores and areas requiring the use of bear resistant food containers in Lake Clark National Park. Crescent Lake is located on the southwest flank of Mount Redoubt. Historically this area has seen limited camping activity due to high density bear populations and dense vegetation. Recently the area has experienced increased camping activity and a corresponding increase in the number of incidents that bears have been exposed to human food sources. The required use of Bear Resistant Food Containers in this area is intended to reduce the number of incidents in which bears may gain access to human food sources.

Subject: Closures and public use limits

Pursuant to Title 36 of the Code of Federal Regulations, 1.5(a)(1)the Superintendent of Lake Clark National Park and Preserve has determined:

From May 1 through August 31, the meadow north of the slough in Chinitna Bay as shown on the attached map is closed.

The reasons for this restriction are as follows:

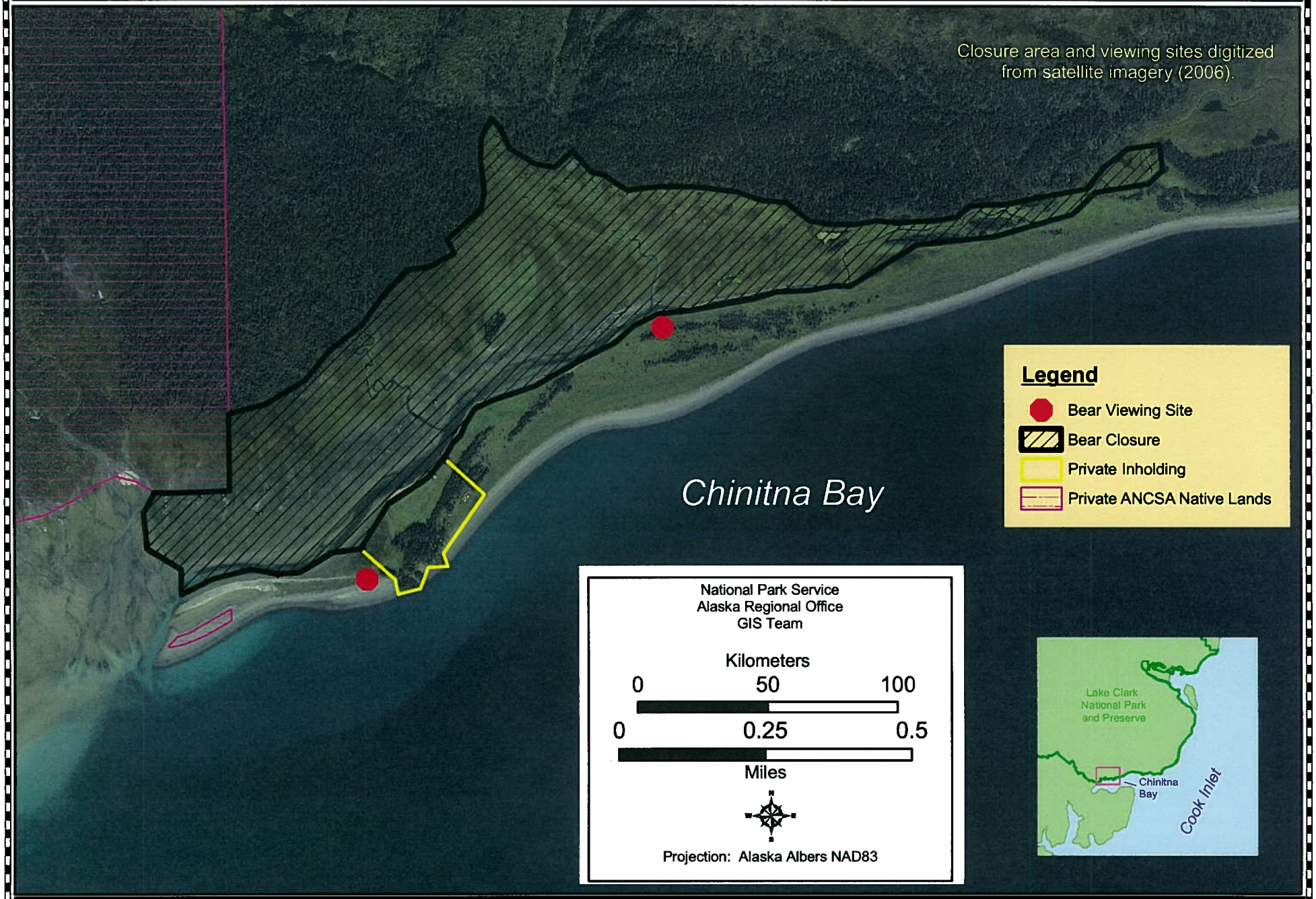
- The NPS is concerned over bear-human conflicts and critical bear habitat in Chinitna Bay. Between May and August, this area is critical habitat for bear feeding and mating activity.
- Bears congregate in this meadow and move freely between the forested area to the north and the slough. In 2009, over 60 individual bears reportedly occupied this area.
- Most bear viewing activity occurs in two prominent locations along the south side of the slough. One area is on private property. The other is a long recognized NPS viewing area north east of the private property. The NPS is considering the identification of a third viewing location to provide additional bear viewing opportunities. Human movement between these viewing areas should be limited to travel below the vegetation line along the Chinitna Bay beach. This route of travel provides the best visibility for visitors to minimize surprise bear /human encounters in tall grass or dense spruce vegetation and will help minimize inadvertent trespass on private property. Unregulated travel along the south bank of the slough inadvertently pushes bears back into the meadow and interferes with visitors occupying bear viewing locations by pushing bears out of sight.

The reasons less restrictive measures will not be effective are as follows:
Commercial operators are already subject to this restriction and generally compliance among commercial operators is good. However, in recent years, unguided visitors have entered this area during this critical time period, jeopardizing public safety by increasing the likelihood of bear-human conflicts and also potentially impacting bears.

Chinitna Bay - Lake Clark National Park and Preserve

Bear Meadow Closure to Human Activity: May 1 - August 31

Alaska Region
National Park Service
U. S. Department of the Interior



Map creation date: 3-12-2010