FINDING OF NO SIGNIFICANT IMPACTS
McCarthy Creek Access
Wrangell-Saint Elias National Park and Preserve, Alaska

The National Park Service (NPS) has prepared an environmental assessment (EA) to evaluate a proposal by Butterfly Sunstar, Nava S. Sunstar, and Joshua Hale (the applicants) for temporary access with a bulldozer and trailer to two inholdings in the McCarthy Creek area of Wrangell-Saint Elias National Preserve. The NPS evaluated this proposal, a no action alternative and an alternative which modified the proposal by adding permit stipulations including travel over frozen ground and mostly frozen water.

Under their proposal, the applicants wish to transfer food, building supplies, and fuel to their property using the bulldozer with blade generally up and towing a trailer on wheels or skids. The applicants' request is premised in part on the applicants' need to replace a structure and its contents that burned in the Spring of 2003.The applicants proposed to follow a 14-mile bladed alignment between the town of McCarthy and their inholdings at the Marvelous Millsite (USMS 1082-B) and Spokane Placer (USMS 875), with about 12.5 miles of the alignment on Preserve lands. The NPS has evaluated whether to issue a special use permit for the temporary access to last up to one year. The NPS evaluated the applicants temporary access request pursuant to ANILCA Section 1111 and its implementing regulations at 43 CFR 36.12, which provide for temporary access for state and private landowners.

PUBLIC INVOLVEMENT

The NPS released the McCarthy Creek Access EA on January 23, 2004 for a 30-day public review and comment period. Sixty-two copies of the EA were mailed to stakeholders; additional copies of the EA were made available at park ranger stations. The EA was also available on the Wrangell-Saint Elias National Park and Preserve website at www.nps.gov/wrst. The NPS received a total of 239 comment letters or emails. Two comment letters were received from government agencies, the U.S. Army Corps of Engineers and the State of Alaska. The remaining 237 letters were from non-governmental organizations, businesses, commercial operators, and individuals; of these, 176 individuals provided comments using standard questionnaires.

The commenters raised concerns about the following topics, which are addressed in more detail in the attached errata with NPS responses to comments (Attachment A.)

- Permitting and Other Regulatory Authority
- RS 2477 Rights-of-Way
- Purpose and Need for Action
- Alternatives Considered
- Permit Stipulations Under Alternative C (NPS Preferred)
- General Impacts

- Fisheries (Dolly Varden) Data and Impacts
- Cultural Resources Impacts
- Wildlife Impacts
- Soil and Vegetation Impacts
- Visitor Impacts
- Other Alternatives
- Other Agency Permits

ALTERNATIVES

The EA evaluated three alternatives as described below.

Alternative A – No Action Alternative

The applicants would continue to access their inholdings on McCarthy Creek by snowmachine (during periods of adequate snow cover), airplanes, and non-motorized surface transportation methods – all methods allowed under ANILCA 1110 (a) with no additional authorization from NPS. The applicants have successfully used the following means to travel between McCarthy and their inholdings, to transport supplies to the inholdings, or both during 2002 and 2003: snowmachines and tow-behind sleds, fixed-wing aircraft landing on an existing airstrip on the Spokane Placer property, and up to nine horses. Under this alternative, no special use permit for temporary access would be issued by the NPS for use of a bulldozer and trailer to transport supplies to the applicants' two inholdings on McCarthy Creek.

Alternative B – Applicants' Proposal

The NPS would issue a special use permit for temporary access with a bulldozer to the applicants' two inholdings on McCarthy Creek under the conditions described by the applicants' SF-299 form and subsequent correspondence (see Appendix A of the EA for complete details). Travel would occur in October, November, or during frozen conditions. The proposed alignment would follow a 14-mile bladed alignment between the town of McCarthy and the applicants' inholdings at Marvelous Millsite and the Spokane Placer. Approximately 12.5 miles of the proposed alignment crosses federal public lands, and the primary alignment also crosses private property in four places. If the applicants do not receive permission to cross these private lands, a bypass around the properties at 5 Mile (US 6081) and Green Butte Millsite using the barren floodplain or an existing alternate alignment, respectively, could be used (see Map 7). A bypass around the Big Ben Millsite property using the frozen McCarthy Creek corridor in the winter also is possible. Park staff may accompany the applicants along the alignment to monitor permit compliance. Two sections along the way, where material has slumped onto the alignment, would likely be bladed, and other sections may be bladed if the NPS agrees with the operator's suggestion or identifies a need to reestablish a level surface for the bulldozer, and assuming the sections have a durable coarse substrate.

The special use permit would be valid for up to one year from the date it is issued. A maximum of nine round trips (18 one-way passes), would be authorized between McCarthy and the applicants' inholdings using a D-5 caterpillar or smaller bulldozer (or other comparable methods of transportation), and an approximately16-foot long trailer on wheels or skids (runners) depending on snow cover and ground conditions. Based on the alignment and the number of trips, an estimated 300 crossings of McCarthy Creek and major tributaries would be necessary during travel. Materials transported would include food, animal feed, clothing and other personal items, fuels, and building supplies. Hazardous materials transported would include gasoline, propane, diesel, adhesives, and paint products.

Alternative C – Frozen Ground and Mostly Frozen Water Access (NPS Preferred)

The NPS would issue a special use permit for temporary access with a bulldozer to the applicants' two inholdings on McCarthy Creek. The permit would include a number of terms and conditions to protect the Preserve's resources and values (see Appendix C in the EA). Travel would be authorized from the date the permit is issued to April 15, 2004, and from October 20, 2004, to either April 15, 2005, or the expiration date of the permit (whichever comes first), subject to frozen ground conditions, sufficient snow cover to protect vegetation, and stream crossings using ice or snow bridges strong enough to support permitted vehicles. Open water crossings would require advance approval by the Superintendent or designee.

There would also be provisions for fuel containment, spill prevention, and cleanup. The purpose of access, type of heavy equipment used (i.e., bulldozer and trailer, or other comparable methods of transportation), and materials transported would be the same as described under Alternative B (Applicants' Proposal). The access alignment would be largely similar to that described under Alternative B, except for adjustments to protect natural resources (e.g., to avoid the Cutbank area about one mile south of Marvelous Millsite). Park staff may accompany the applicants along the alignment to monitor permit compliance and address on-site issues.

Alternatives Considered but Eliminated from Further Consideration

The NPS did not consider a bypass around private property at Big Ben Millsite along an abandoned alignment referred to as the Wigger Alignment. This bypass would require 300 to 1,100 linear feet of new construction through pristine (undisturbed by previous activity), vegetation, as well as 750 to 3,000 linear feet of reconstruction along the old, and now overgrown, Wigger Alignment. Therefore, this bypass would not comply with the 43 CFR 36.12(a)(2) definition of temporary access ("...access that does not require permanent facilities"), or with Section 1111 of ANILCA Title XI that "...such access will not result in permanent harm to the resources of such unit."

ENVIRONMENTALLY PREFERRED ALTERNATIVE

The EA identifies Alternative A (No Action) as the environmentally preferred alternative, because it most satisfies the national environmental goals as expressed in Section 101 of the National Environmental Policy Act.

MITIGATION

In the EA as part of Alternative C (NPS Preferred Alternative), the NPS listed several terms and conditions that would be required to mitigate impacts (Appendix C of the EA).

ENVIRONMENTAL CONSEQUENCES OF ALTERNATIVE C (NPS PREFERRED)

Alternative C (NPS Preferred) would result in negligible to minor impacts to soil and substrate resources because the ground would be protected with adequate snow cover and frozen conditions. Minor impacts would occur to vegetation for similar reasons. Aquatic habitat and fish would sustain minor impacts because creek crossings would occur when the water is frozen. Open water crossings would require advance approval by the superintendent or designee. Effects on wildlife and its habitat would be negligible to minor because of short-term disturbances and because temporary access would occur during bears' winter dormancy. Impacts to cultural resources would be minor, as would effects to visitor use and aesthetics. There would be a minor to moderate safety risk from aufeis, flooding, and snow avalanche, but this risk would be reduced to minor if proper reconnaissance, alignment selection, and avoidance of dangerous reaches and periods are integrated into operations. None of the potential environmental consequences would result in the impairment of Park resources that fulfill specific purposes identified in the Park and Preserve enabling legislation or that are key to the natural and cultural integrity of the Park and Preserve.

The minor incremental impacts from Alternative C, when added to the moderate impacts caused by other past, on-going, and reasonably foreseeable future actions within the area, would result in moderate cumulative effects to soil and substrate, vegetation, aquatic habitat and fish, wildlife, cultural resources, and visitor use and aesthetics.

DECISION

The NPS will implement Alternative C (Frozen Ground and Mostly Frozen Water Access - NPS Preferred), with modifications to certain terms and conditions. Changes were made in response to public comment on the EA to make the terms and conditions more workable for the applicant while still protecting Park and Preserve resources and values. The modified terms and conditions are presented below (see Attachment B for the complete and final list of terms and conditions).

Term and Condition #2

Travel pursuant to this permit is authorized from the date of permit issuance to April 15, 2004; and from October 20, 2004 until either April 15, 2005 or the expiration of the permit (whichever comes first). Travel during the above identified periods is further conditioned upon the ground being frozen to a minimum depth of 6 inches and the existence of snow cover sufficient to protect the resources, typically more than 6 inches of snow. Stream crossings will utilize ice or snow bridges; these bridges must be strong enough to support permitted vehicles. Open water crossings require advance approval by the Superintendent or designee.

Term and Condition #4

The Permittee shall notify the Superintendent 48 hours prior to the start of each trip. However, if after one or more trips are completed, and the site conditions still allow for access to proceed, this stipulation may be modified.

Term and Condition #11

Bulldozer operators will not execute tight turns by locking one track without advance approval by the Superintendent or his designee.

Term and Condition #13

Any equipment which breaks down or becomes stuck (i.e., cannot be extricated by means of immediately available resources), during access will be reported as soon as possible to the Superintendent or his designee. Equipment must be removed or stabilized in consultation with the NPS.

Term and Condition #14

The permittee shall not injure, alter, destroy, or collect any cultural resource site, structure, or object. Examples of cultural resources within the area of potential effect are mining camps, road construction camps, isolated cabins, tunnels, remains of bridge abutments, and associated features and artifacts.

Term and Condition #16

A snow ramp or ice bridge must be constructed only of snow and water, and must be substantially free of soil and organic debris. If water is pumped from the creek to make an ice bridge, the intake of the pump hose must be screened to protect fish and their eggs.

Term and Condition #18

Fuel for the bulldozer can be cached at a single location on NPS land along the access corridor provided the location of the fuel cache is at least 100 feet from the active stream channel of fish-bearing streams (McCarthy Creek, East Fork McCarthy Creek, Nikolai Creek). The fuel cache capacity is limited to 55 gallons. Secondary containment of cached fuel will be achieved using overpack containers. Advance notification of 48 hours for the proposed fuel cache shall be provided to the NPS for review and approval. Fuel shall not be cached between April 15 and October 20, 2004. Refueling of the bulldozer may be allowed adjacent to fuel caches. When refueling the bulldozer, applicant must not leave equipment unattended while actively refueling. Absorbent materials will be used while refueling to collect any fuel that may be spilled during the refueling operations. A tarp or other secondary containment must be placed beneath equipment when refueling.

RATIONALE FOR THE DECISION

The NPS has selected a modified Alternative C (Frozen Ground and Mostly Frozen Water Access – NPS Preferred), for implementation. This alternative was selected because it better meets the applicants' needs while having essentially the same level of impacts as Alternative A (No Action) and fewer impacts than Alternative B (Applicants' Proposal). Given the nature of the temporary access request, the NPS will issue a special use permit immediately.

The NPS made several changes to the permit terms and conditions of Alternative C (originally listed in Appendix C of the EA) to make the terms and conditions more workable for the applicants. These modifications were suggested in public comments and, in the view of the NPS, are reasonable changes. Specifically, the NPS modified the standards related to depth of frozen ground during bulldozer use, pre-trip notification, executing tight turns with the bulldozer, constructing snow or ice bridges, refueling the bulldozer, and fuel storage. This modified alternative will meet both the needs of the applicants and protect the resources and values for which Wrangell-Saint Elias National Park and Preserve was established.

Alternative A (No Action) was not selected for implementation, because current information indicates the applicants may not be able to transport all of the materials they need using only the methods allowed under ANILCA 1110(a). The applicants' request is premised in part on the applicants' need to replace a structure and its contents that burned in the Spring of 2003. From the information made available by the applicant, snowmachines, airplanes, and other nonmotorized transportation may not be sufficient to move the quantity and sizes of needed materials and supplies.

Alternative B (Applicants' Proposal), was not selected for implementation, because it would cause greater adverse impacts to Park and Preserve resources than would either Alternative A (No Action) or Alternative C (NPS Preferred). Under Alternative B, travel

on unfrozen ground would result in churning of soils and destruction of existing roots and ground cover mat that could setback vegetation succession by 10-20 years. Under Alternative C such impacts will be minimized because travel will be when the ground is frozen and there is adequate snow cover. The risk of human-bear conflicts would be greater under alternative B, because temporary access would overlap with the period when bears are active. Under Alternative C, travel will occur when bears are in winter dormancy. Alternative B also has the potential to cause permanent harm to Dolly Varden in McCarthy Creek due to travel by bulldozer through an estimated 300 open-water stream crossings. Under Alternative C, Dolly Varden will be protected by requiring crossings when the water is frozen or when the superintendent or designee approves an open water crossing where redds are not likely present.

No significant adverse impacts will result from the decision to implement Alternative C (Frozen Ground and Mostly Frozen Water Access – NPS Preferred). As summarized above, this decision will result in negligible to minor impacts to soil and substrate, vegetation, aquatic habitat and fish, wildlife, cultural resources, and visitor use and aesthetics. There will be a minor to moderate safety risk from aufeis, flooding, and snow avalanche, but this risk will be reduced to minor if proper reconnaissance, alignment selection, and avoidance of dangerous reaches and periods are integrated into operations. Cumulative impacts have been considered and will be moderate. None of these impacts are likely to be highly controversial, highly uncertain, or involve unique or unknown risks. Implementation of Alternative C (NPS Preferred) will not result in the impairment of Park resources that fulfill specific purposes identified in the Park and Preserve enabling legislation or that are key to the natural and cultural integrity of the Park and Preserve.

Issuing a special use permit for temporary access to the applicants' two inholdings on McCarthy Creek under the terms and conditions specified will not establish a precedent for future actions with significant effects nor does it represent a decision in principle about any future consideration.

No federal, state, or local laws or requirements imposed for protection of the environment will be violated by implementing this action. This action complies with the Endangered Species Act, the National Historic Preservation Act, and Executive Orders 11988, 11900, and 12898. There will be no significant restriction of subsistence activities as documented by the ANILCA Title VIII, Section 810(a) summary evaluation and findings.

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

Recommended: Gary Candelaria Mar. 10, 2004
Superintendent, Wrangell-Saint Elias National Park and Preserve Date

Approved: Marcia Blaszak 3/10/2004
Acting Regional Director, Alaska Date

Attachment A: NPS Responses to Public Comments and Errata for the EA
Attachment B: Revised Terms and Conditions of Permit for Temporary Access

ATTACHMENT A

NPS RESPONSES TO PUBLIC COMMENTS AND ERRATA
For The
MCCARTHY CREEK TEMPORARY ACCESS EA

In response to the McCarthy Creek Temporary Access EA, the NPS received 239 comment letters, including 176 standard questionnaires. Described below are the substantive comments and the NPS responses. The comments include the initials of the parties making the comment (the names and initials of commenters are found at the end of this document).

PERMITTING AND OTHER REGULATORY AUTHORITY

Comment 1. The NPS should have used Section 1110 of ANILCA rather than Section 1111 in analyzing the application for temporary access because the law states temporary access is for "purposes of survey, geophysical, exploratory and other temporary uses" of the State's or private landowner's land (emphasis added.) The NPS purposely deleted "temporary" before "uses" in the phrase above. (SC) ANILCA 1110(b) is the appropriate authority with which to address the requested access. (SC, PLF, JPT, JH, LG, Questionnaires)

The NPS continues to believe that Section 1111(a) of ANILCA is the correct provision to address the application for temporary access. The applicants' request is premised in part on the applicants' need to replace a structure and its contents that burned in the Spring of 2003. From the information made available by the applicant, snowmachines, airplanes, and other nonmotorized transportation may not be sufficient to move the quantity and sizes of needed materials and supplies, Given the temporary nature of the request and the short period of time to transport material before conditions change, we analyzed the temporary access request under Section 1111. The NPS unintentionally misquoted ANILCA Section 1111.

Comment 2. The proposed access is not subject to environmental analysis under NEPA. (PLF, DS)

The action of analyzing a permit application for temporary access is a federal action that requires NEPA analysis under applicable NPS NEPA regulations (see 43 CFR 36).

Comment 3. Documenting Traditional and Subsistence Access in Wrangell-Saint Elias National Park and Preserve," a publication by Terry L. Haynes and Stan Walker, establishes that small bulldozers pulling trailers are a traditional means of access in Wrangell-Saint Elias National Park. I oppose these NPS attempts to block long-standing traditional means of access over existing roads and rights-of-way. (NW, JH, Questionnaires)

The purpose of this EA was to evaluate a request for temporary access using a bulldozer pulling a sled on wheels or skids. The document referenced above is a study of traditional access used prior to establishment of Wrangell-Saint Elias National Park and Preserve in 1980. The report was not designed to present a comprehensive look at access in the Park and Preserve prior to the passage of ANILCA in 1980. Instead the purpose of this report and the accompanying maps was to present information from diverse data sources, including book, articles, agency files and maps and personal interviews.

Comment 4. If access is guaranteed by law, a permit should not be necessary. (PLF, Questionnaires)

A permit is required by regulation (43 C.F.R. 36.12).

RS 2477 RIGHTS-OF-WAY

Comment 5. The State disagrees with the NPS characterization of the validity of the RS 2477 route from McCarthy to the Marvelous Millsite (RST 135, the McCarthy-Green Butte Trail). The State established the validity of the right-of-way by documenting construction and use before the land was withdrawn from the public domain. State acceptance of the self-executing federal grant contained in RS 2477 for this route is confirmed in Alaska Statute 19.30.400. This state-owned right of access provides the public with the right to travel over the route and includes use by off-road vehicles. It is a valid existing right recognized under the Federal Land Policy and Management Act and the Alaska National Interest Lands Conservation Act....The Alaska Department of Natural Resources has not surveyed the original RS 2477 right-of-way alignment on the ground. (AK. PLF, JPT, ROW, RS, TS, JS, LG, Questionnaires)

The NPS acknowledges that the State has asserted a claim that the McCarthy-Green Butte Trail is an RS 2477 right of way; however, the Federal government has not examined the validity of the claim and, therefore, takes no position on its validity. Furthermore, the Department of the Interior is developing a process for working with states on recognition of RS 2477 rights of way, but has not yet entered into an agreement on this subject with the State of Alaska. At this time, the NPS acknowledges that the McCarthy Creek route is a potential RS 2477 right of way. Therefore, the NPS has analyzed this temporary access request under the applicable ANILCA access regulations at 43 CFR 36.

Comment 6. My mining company, Differential Engineering Inc., used this road, the McCarthy-Green Butte Road, in 1982 and 1983 for mining and exploration. Differential Engineering Inc. was contracted to conduct exploration drilling, and mining on Green Butte. We used this road to haul mining equipment, explosives, pumps, etc. from the town of McCarthy to Green Butte. The road was real rough, after the yearly flood from the snow melt, so we used a D9 cat to open the road initially each year, all with Park

knowledge, without a permit or permission, since its was a public road under RS2477. I present this information on the historical use of this public road. (TS)

The NPS has not been able to confirm the accuracy of the above information. However, as stated above, the Federal government has not examined the validity of the RS2477 claim for the McCarthy-Green Butte Trail and, therefore, takes no position on its validity.

Comment 7. To use heavy equipment on the McCarthy-Green Butte Trail, a user must apply for a Land Use Permit from the Alaska Department of Natural Resources, Division of Mining, Land, and Water, and is subject to reasonable stipulations by the NPS to protect the underlying land. (AK, RS, JPT, PLF)

The NPS will inform the applicants of the State's position that a State Land Use Permit is required to drive heavy equipment across RS 2477 rights-of-way.

Comment 8. The NPS should acknowledge that the McCarthy-Green Butte Trail was once a well-established road with bridges and tunnels, but accessibility was curtailed by periodic flooding and landslides following the active mining period. The EA also should acknowledge this route previously provided access to these patented private lands. (AK, JPT, PLF, ROW, MR, NW, DS, CR, BT, JS, RK, PE)

This information has been incorporated into the EA via this errata.

Comment 9. The State determined that the RS 2477 right-of-way is valid across the University land...and also is valid across private properties: USS 6081, Big Ben Millsite, and Green Butte Millsite....While the right of access exists across these properties, the State requires the applicant to contact the owners about the proposed use of the right-of-way. (AK)

As stated in the EA (page 13), the NPS permit only provides authorization for access across federal public lands; it does not address permission to cross private lands.

PURPOSE AND NEED FOR ACTION

Comment 10. The NPS adopted an overly narrow scope of the purpose and need. The NPS must evaluate all reasonable alternatives, including whether the No Action Alternative meets the applicants' needs and whether existing modes of transportation are adequate and feasible. Without such evaluations, these sections fail to comply with NEPA because the NPS makes the unfounded conclusion that the applicants must have bulldozer access to meet their needs. This conclusion creates subsequent biases in the scope of analysis and range of alternatives considered. (TWS)

The NPS disagrees. The purpose and need and range of alternatives are adequate as written. In describing the purpose and need (pages 5 and 6 of the EA), the reader is referred to Appendix A which contains the full text of the applicants' SF299 and related

correspondence which provide background and further information on the purpose of and need for access. As to the alternatives, under regulation, the NPS must evaluate the applicants' proposal, as well as a reasonable range of alternatives (40 CFR 1502.14(a)). The NPS did just this by assessing not only the applicants' original proposal requesting temporary bulldozer access to their inholdings, but also a modification of that proposal to protect Park resources and values, and a No Action Alternative which would allow only those means of access allowed under ANILCA 1110(a) with no authorization from the NPS.

Comment 11. The proposed access would be entirely within a preserve, which the public perceives as having less protection than parks because sport hunting is allowed. The NPS should make clear that a preserve receives the same protection as a park except for sport hunting. (ACE)

The NPS describes the purpose and significance for Wrangell-Saint Elias National Park and Preserve from ANILCA Section 201(9) on page 7 of the EA without differentiating between the Park and Preserve. ANILCA Section 203 authorizes sport and subsistence hunting in preserves.

ALTERNATIVES CONSIDERED

Comment 12. The No Action Alternative constitutes an outright denial of the application and is wholly insufficient to meet the applicants' needs. Alternative C (NPS Preferred) essentially denies the application by burdening the permit with stipulations that make it unworkable. (JPT, PLF, ROW, Questionnaires)

The No Action Alternative and Alternative C (NPS Preferred) are reasonable alternatives as required by NEPA, and both provide opportunities for temporary access.

The No Action Alternative is the baseline against which the effects of the action alternatives are evaluated. Furthermore, the No Action Alternative would not require a permit from the NPS. Forms of access allowable under the No Action Alternative provide a useful means of transport for many of the materials listed in the applicants' permit application. See the description of this alternative on page 12 of the EA, which describes the uses of snowmobiles, airplanes, and non-mechanized surface transportation such as horses and wagons. Numerous trips were made by fixed wing aircraft to deliver supplies to the applicants' inholdings in autumn 2003, and the applicants continue to haul supplies with snowmobiles.

Alternative C (NPS Preferred) also provides the applicants temporary access to their inholdings. The NPS does not agree that the stipulations are burdensome or deny the applicants' access; however, in response to public comments, some of the stipulations described in the EA have been modified (see "Permit Stipulations Under Alternative C" below).

Comment 13. A key element of the access permit application for immediate access was for access in the summer. (JPT, PLF)

In their SF299 application and related correspondence, the applicants sought temporary access with a bulldozer pulling a sled on wheels or skids; the months referenced in the application materials were October and November. Summer access was not specifically requested by the applicants and, therefore, was not evaluated as an alternative in the EA.

Comment 14. There is a discrepancy between the Terms and Conditions for Alternative C (Appendix C) and the environmental consequences discussion related to the number of places where some blade work would need to occur. Appendix C states two sites could need blade work by the bulldozer: 1) the upper tunnel bypass and 2) along the river bank about one mile south of Marvelous Millsite. The analyses for alternative 2 addresses only blade work on soils near the upper tunnel bypass where slumping often occurs. (NPCA)

Commenter is correct in noting the discrepancy. Appendix C for Alternative C (NPS Preferred) should not address blade work one mile south of the Marvelous Millsite because Alternative C would avoid the Cutbank area south of the Millsite where earth work would likely be needed with a bulldozer blade. See description of Alternative C on page 14 of the EA.

Comment 15. The applicants would like to be able to use a sled instead of a wheeled trailer. (Hale)

The NPS assumed the trailer could be on wheels or on runners (i.e., a sled)..

Comment 16. Under Alternative A, there is no mention of pack horses as a means of summer transport. (ELC)

Use of horses for transport is generally covered under Alternative A (page 12) by the statement that the applicants would continue to access their inholdings by snowmachine, airplanes, and non-motorized transportation methods, as well as by the reference to applicants' use of up to nine horses for travel to and from their property and the town of McCarthy.

PERMIT STIPULATIONS UNDER ALTERNATIVE C (NPS PREFERRED)

Comment 17. (Stipulation 2) Basing the timing of winter transport on the depth of frost in the ground opens up a real can of worms. This depth varies widely all over the map, often over very short distances. What would be the "official" site for such a measurement? I can see nothing but endless arguments about how deep the frost is, and where, if this criterion is adopted. A permit for transport of any kind should be performance-based, not specification-based. Require the permittee to avoid causing damage to Park resources and leave it to him to decide how much snow and how deep the ground frost. Penalty for screwing up might be denial of a permanent permit. (ELC)

The NPS concurs with the statement that the depth of frost in the ground can vary widely over short distances. Our goal is to protect soils and vegetation cover which can be accomplished by restricting operations to periods of adequate frozen ground and snow cover. The stipulation has been revised to reflect experience from past permitting for movement of equipment used for mining operations. The revised stipulation reads, in part: "Travel...is further conditioned upon the ground being frozen to a minimum depth of 6 inches and the existence of snow cover sufficient to protect the resources, typically more than 6 inches of snow..." NPS soils and vegetation specialists have been consulted regarding this change and concur that it would not change the analysis conclusions presented in the EA. The NPS has the responsibility for making the determination of frost depth.

Comment 18. (Stipulation 2) The NPS is demanding that there be at least 12 inches of frost penetration in the ground and six inches of snow cover before travel over the McCarthy-Green Butte road by the Pilgrims is allowed. Those are the rules used by agencies on the Arctic Slope for oil industry operations over ice-rich, fine-grained soils, and undisturbed tundra. There is nothing even remotely like that type of terrain crossed by the McCarthy-Green Butte road. No tundra. No permafrost. And most of it's on gravel. This NPS requirement is grossly unreasonable and appears to be a tool to prevent access. (AMA, Questionnaires)

As stated in the EA, the access alignment traverses both barren gravel areas and areas that are vegetated (see section 3.3.1). The purpose of the stipulation referenced is to protect soils and vegetation cover which can be accomplished by restricting operations to periods of adequate frozen ground and snow cover. That said, the NPS has revised the stipulation to reflect experience from past permitting. See above under Comment 1of this section for further information.

Comment 19. (Stipulation 2) Limiting travel to the period between October 20 and April 15 makes Alternative C (NPS Preferred) unworkable. The type of vehicle authorized may not be suitable for traversing glaciated slopes when there is risk of slipping or rolling into the river. (JPT, RS, ROW, JH, Questionnaires)

The SF299 application and related correspondence reference the months of October and November using a bulldozer and a sled on wheels or skids. Human safety was an impact topic analyzed for all alternatives. For Alternative C, the NPS concluded that there would be a minor to moderate increase in risks to safety from aufeis, flooding, and snow avalanche. These would have only a minor additional adverse impact on safety conditions if proper reconnaissance, alignment selection, and avoidance of dangerous reaches and periods are integrated into operation.

Comment 20. (Stipulation 2) The stipulations requiring ice bridges to be constructed at all stream crossings, heavy enough to support a D5 bulldozer, free of all vegetative matter, to avoid stream contact is unreasonable and unfeasible. Ice bridges as a whole are out of the question for McCarthy Creek. Ice bridges are used on bigger rivers where the

ice floats on the water. Ice on McCarthy Creek doesn't float; it "bridges" from bank to rock to rock to bank. The only way to cross with heavy equipment is to either spread out the weight with a snow bridge or doze out the ice and ford the creek. (RW, RS, JH)

The applicants have successfully constructed ice or snow bridges on McCarthy Creek in the past. Regardless of this fact, however, Stipulation #2 requires ice or snow bridges only over stream crossings that the Superintendent or designee have not approved for open water crossing. These bridges may be either naturally occurring or man-made (the stipulation does not specify which). This stipulation is not unreasonable; indeed, it is included in the regulations implementing the Alaska Forest Resources and Practices Act (11 AAC 95.300). The NPS also references "Ice Thickness and Ice Bridges: An Annotated Bibliography." John D. Fox, Jr. and Robert Ott. 7/10/2000. Published at http://www.dnr.state.ak.us/forestry/forprac.htm#DOCS.

Comment 21. (Stipulation 3) The NPS has no standing or interest in permits from other governmental authorities or permission from other private land owners. (JPT)

It is the applicants' responsibility to secure permission to traverse private property and permitting approvals from other government agencies. For legal access to occur, these requirements must be satisfied prior to commencement of access by the applicants.

Comment 22. (Stipulation 4) The condition requiring notification of the Park superintendent 48 hours prior to each trip is unworkable. (JPT, RS)

The NPS disagrees. We believe this condition is reasonable and necessary to assure protection of the environment. The 48-hour requirement provides time for all parties for planning and preparation. However, if after one or more trips are completed, and the site conditions still allow for access to proceed, this stipulation may be modified.

Comment 23. (Stipulation 6) The reconnaissance trip is vague not clearly spelled out that it will occur prior to the first trip. It's also not clear how the reconnaissance will be conducted (helicopter, bulldozer), and who pays. (MP)

As noted under Stipulation # 6 in Appendix C, the reconnaissance would be conducted before a bulldozer is moved across the selected alignment. The means by which the reconnaissance would be conducted could vary and would be based on what works best given the terrain, weather conditions, or other factors. In this case, the NPS would cover the costs of its personnel involved in the reconnaissance.

Comment 24. (Stipulation 8) The condition pertaining to bulldozer travel with the blade up is unworkable and should be modified. It is requested that the condition be modified to allow the blading of other areas where appropriate, as well, subject to the advice of NPS agents accompanying the train. (JPT)

Stipulation #8 in Appendix C already states that "other short sections of previously bladed side slopes or slopes with recent cut and fill may be bladed with advance approval by the Superintendent."

Comment 25. (Stipulation 11) The use of locked bulldozer track turns should be subject to approval by the NPS representative accompanying the trip and not prohibited. (JPT, AMA, JH, Questionnaires)

Though locked track turns have a higher probability of impacting natural resources by shearing the soils and vegetation cover, the NPS agrees that it's reasonable to change this stipulation to allow the use of locked track turns subject to approval by the NPS representative.

Comment 26. (Stipulation 13) In regard to equipment breakdowns, it is not clear what is intended by the reference to equipment that becomes stuck. (JPT)

The stipulation will be revised to refer to equipment which cannot be extricated by means of immediately available resources.

Comment 27. (Stipulation 14) The applicant should be permitted to relocate cultural resources within 30 feet of the right-of-way outside of the right-of-way subject to approval of the accompanying NPS representative. Every person in the USA who travels the route can use the "cultural resources." Prevention of tunnel usage makes access impossible. (JPT, RS, Hale)

The NPS cannot authorize cultural resources to be relocated as requested. The National Register criteria limit the consideration of moved properties because significance is embodied in locations and settings as well as in the properties themselves. Moving a property destroys the relationships between the property and its surroundings and destroys associations with historic events and persons. A move may also cause the loss of historic features such as landscaping, foundations, and chimneys,. as well as loss the of the potential for associated archeological deposits. In accordance with 36 CFR 800.5(a)(2), Apply the Criteria of Adverse Effect, to move historic properties as suggested would result in a determination of adverse effect. To quote the regulations: "Examples of adverse effects include...relocation of a property; change of use or physical features of a properties setting..."

However, because the NPS did not intend to prohibit the applicants' use of the lower tunnel, the referenced stipulation has been revised for clarification as follows: "The permittee shall not injure, alter, destroy, or collect any cultural resource site, structure, or object. Examples of cultural resources within the area of potential effect are mining camps, road construction camps, isolated cabins, tunnels, remains of bridge abutments, and associated features and artifacts."

Comment 28. (Stipulation 16) In Stipulation #16, Appendix C, it says "if water is pumped from the creek...the intake of the hose should be screened." The "should be"

needs to be changed to "must be," as "should provides the permittee the option of doing it or not. (MP)

The NPS agrees and, via this errata, will make the change suggested.

Comment 29. (Stipulation 16) The presence of organic debris and soil in the construction of a snow or ice bridge is virtually unavoidable. Furthermore the presence of such debris contributes integrity to the structure; therefore it is highly desirable. Breaching such bridges before breakup is likewise unnecessary and inappropriate. (JPT, RS, ROW, JH, Questionnaires)

The NPS will modify Stipulation # 16 to read: "A snow ramp or ice bridge must be constructed only of snow and water, and must be substantially free of soil and organic debris. If water is pumped from the creek to make an ice bridge, the intake of the pump hose must be screened to protect fish and their eggs."

Comment 30. (Stipulation 17) It is reasonable for the applicants to avoid unreasonable impact on resident fish, as well as unreasonable alteration or blockage of the stream channel. Proposed activities that may have that impact should be subject to approval by the superintendent's duly authorized representative then present. (JPT)

The NPS disagrees. The stipulation will remain unchanged to protect aquatic and fisheries resources.

Comment 31. (Stipulation 18) Fuel caches and refueling should be allowed on NPS lands. (JPT, AMA, Hale, RS, ROW, Questionnaires)

The NPS has revised the stipulation as follows: "Fuel for the bulldozer can be cached at a single location on NPS land along the access corridor provided the location of the fuel cache is at least 100 feet from the active stream channel of fish-bearing streams (McCarthy Creek, East Fork McCarthy Creek, Nikolai Creek). The fuel cache capacity is limited to 55 gallons. Secondary containment of cached fuel will be achieved using overpack containers. Advance notification of 48 hours for the proposed fuel cache shall be provided to the NPS for review and approval. Fuel shall not be cached between April 15 and October 20, 2004. Refueling of the bulldozer may be allowed adjacent to fuel caches. When refueling the bulldozer, applicant must not leave equipment unattended while actively refueling. Absorbent materials will be used while refueling to collect any fuel that may be spilled during the refueling operations. A tarp or other secondary containment must be placed beneath equipment when refueling.

Comment 32. (Stipulation 19) Over-pack containers should not be required for fuel transportation. (JPT, AMA, ROW, RS, JH, Questionnaires)

Given the estimated 300 crossings of McCarthy Creek and major tributaries that will occur during the permitted maximum of nine round trips (18 one-way passes) and the risk that a fuel spill poses to aquatic resources and fish, the NPS is not willing to relax the

requirement for overpacking fuel containers larger than 5 gallons in size while being transported. Absent a spill or release of fuel from its original container, the overpack containers can be reused again.

Comment 33. The applicant should not have to plow snow off of the access corridor. (JPT)

The NPS has not required and is not requiring snow plowing.

GENERAL IMPACTS

Comment 34. The NPS failed to adequately analyze cumulative impacts of the proposed action. The NPS should analyze the potential impacts of a long-term right of way (ROW) because the applicants' counsel states they will apply for such in the near future. The NPS failed to account for the precedent this bulldozer access would have on other inholders to use bulldozers for access. (TWS) Lastly, it is inappropriate to use the previous illegal bulldozer activity as a baseline for environmental analysis. (TWS, NPCA)

The NPS did not evaluate the potential long-term ROW up McCarthy Creek because we do not know what would be proposed: the width, the alignment, creek crossing methods, types of vehicles. Without the proposal in-hand, the NPS cannot analyze the impacts; to do so would be speculative.

The NPS does show and discuss other State and private inholdings in the McCarthy Creek valley. These are the University of Alaska lands near McCarthy and the private holdings along the proposed route at Mile 5, Green Butte, Big Ben Millsite (See maps 2, 3, 4, 6, and 7.) Furthermore, there are numerous inholdings in the Park as described in the Park's General Management and Land Protection Plans (NPS 1986). Bulldozer use has been authorized by permit in the past to access mining operations.

As for using the existing condition as a result of unauthorized actions as an environmental baseline, the affected environment is evaluated under NEPA as the status quo. Though it's regrettable in this case that the status quo includes the results of unauthorized bulldozing activity, the NPS considers this activity as a past action and, therefore, analyzes it under cumulative effects.

Comment 35. There is no mention of effects of any permitted bulldozer operation on water quality outside the Park boundary. Several residents of McCarthy and the University subdivision depend on clear-flowing McCarthy Creek for potable water in the winter. (ELC)

Based on the information available when the EA was prepared, the NPS believed that McCarthy Creek was not used for human drinking water. However, given the new information provided by this comment, the NPS agrees that a fuel spill could potentially

degrade water quality. It is likely that this would be a temporary condition. In the event of a fuel spill, the applicants would be required to notify the Alaska Department of Environmental Conservation as described in Stipulation #20 in Appendix C.

Comment 36. The EA lacks the findings of the 2003 NPS field investigation team. (PLF, JPT, RW)

NPS staff collected field data in the area in summer 2003. Some of this data, such as mapped information and basic data about the affected environment, was used in the EA. Several of the staff who conducted the field work also were part of the team that prepared the EA.

Comment 37. There is no reference to history of the permit application, and NPS response, for access up McCarthy Creek to the Green Butte mine in 1988. This permit application involved extensive bulldozing and transport by heavy ore trucks. What precedents were set, if any? (ELC)

No precedents were set, because the referenced application was never completed. During the late 1980s David Bartoli submitted a mining plan of operations to explore and extract copper ore from the Green Butte Mine within the McCarthy Creek watershed. As part of that mining operation he proposed to transport ore overland by truck to the town of McCarthy along an alignment that was utilized prior to the establishment of Wrangell-St. Elias National Park and Preserve. His proposed access was an integral component of his mining plan of operations.

Park staff undertook a field survey to assess his proposed access. That field survey recorded existing conditions and noted numerous segments which would have required realignment, upgrading, or reconstruction to accommodate the passage of ore trucks. He never submitted sufficient information to enable the NPS to evaluate the impacts of his proposed operations.

Comment 38. The Hale family in the winter of 02/03 used a military-style tracked vehicle (Nodwell?) towing a large wheeled trailer for freighting to their property. I have heard no comments by anyone whether this had any adverse effects on the trail and no evaluation of it appears in the EA. (ELC)

The NPS did not observe the applicant using such a vehicle, but did hear of its use from a third party. The NPS did not observe any impacts from the use along the route probably because travel occurred when the ground was frozen and snow was present and because of the earlier unauthorized bulldozer activities.

FISHERIES (DOLLY VARDEN) DATA AND IMPACTS

Comment 39. Statements in the Summary Impacts Table on page 18 conflict with the Ecological Overview (3.1.2) on page 19. The Ecological Overview states: "The

ecosystem patterns of the McCarthy Creek Valley are representative of the patterns of the greater Chitina Valley." Yet under Alternative B (Applicants' Proposal), the McCarthy Creek Dolly Varden is referred to as a "unique Dolly Varden population." If McCarthy Creek is representative of other systems in the Chitina River drainage, there may be other anadromous populations of Dolly Varden in the Chitina drainage. In fact, the Alaska Department of Fish & Game has observed and documented resident populations of Dolly Varden in several Chitina River systems. These include the Tebay River drainage, Lakina River drainage, and the Kuskulana River drainage. Large Dolly Varden (> 400mm; possibly anadromous) have been caught in the Chitina Subdistrict by personal use and subsistence users, and by sport anglers in the Klutina and Tonsina drainages. In light of these findings, it is unlikely this is the only anadromous Dolly Varden population in the Chitina River drainage. The NPS captured only one large specimen; thus it is possible the Dolly Varden was a stray from another system. (AK, JPT)

Previous mining activity may have exterminated the Dolly Varden population in McCarthy Creek, and the population re-established by pioneering Dolly Varden from another system. Salmonids are known to stray and pioneer new streams. ADF&G information shows that Dolly Varden migrate through the Copper River during the winter months when flows are lower and movement between systems is facilitated. The data also indicate that Dolly Varden overwintering in the larger tributaries due to limited overwintering sites in the smaller spawning streams (thus, the need for winter sampling to determine winter use of McCarthy Creek). (AK)

The Ecological Overview described the vegetative ecosystem patterns, rather than patterns related to fish species. The NPS agrees that study of Dolly Varden has been limited and that future study may reveal additional Dolly Varden populations in the Chitina River drainage with characteristics similar to the population in McCarthy Creek. However, additional study may also reveal additional fish species within McCarthy Creek or additional characteristics of the Dolly Varden population that further suggest the population is unique. The NPS is aware of other dwarf Dolly Varden populations in Copper River tributaries and that large Dolly Varden are captured in the Copper River mainstem. However, none of the information presented enables us to conclusively determine that the population within McCarthy Creek is not unique within the Park.

The NPS agrees that straying of salmonid populations is well-documented and that Dolly Varden may migrate into larger river systems to overwinter. If the large Dolly Varden captured in McCarthy Creek in October 2003 strayed into McCarthy Creek from another system within the Copper River drainage, potentially the Klutina or Tonsina River drainages, the genetic contribution of this fish is likely to increase the viability the McCarthy Creek population as discussed in the EA.

Comment 40. Dolly Varden are in McCarthy Creek, but this fish species at this location is not known as anadromous or representative of a unique or significant subpopulation. (JPT)

The NPS agrees, and has noted in the EA, that it is not known whether the Dolly Varden in McCarthy Creek are anadromous. However, the NPS continues to believe these Dolly Varden may be representative of a unique or significant subpopulation as stated in the EA (also see response to Comment #1 of this section above).

Comment 41. Based on ADF&G research on Dolly Varden in other parts of the state, it is unlikely that 90 mm specimens are age 0, particularly due to the glacial influence of McCarthy Creek. I a Tiekel River study, age 1 fish were 80-140 mm, age 2 fish were 90-180 mm, age 3 were 100-190, and age 4 were 150-200. Length at ages for the Tiekel River is comparable to sampling results from northwest Alaska. Data in both areas demonstrate that as the fish get older, growth slows, and the most accurate method of determining age is by biological structures, as opposed to length. Since sampling was conduced in October, age 0 fish were likely those 70 mm or less.

On page 25 (Watershed and Aquatic Habitat, 2nd full paragraph), change "These pools provide important overwintering habitat" to "These pools may provide important overwintering habitat." (AK)

The NPS agrees that at least four age classes of Dolly Varden were likely present in McCarthy Creek during October 2003. The presence of 30 millimeter fish in McCarthy Creek strongly suggests the presence of a spawning population. Based on the presence of four age classes of Dolly Varden in McCarthy Creek during sampling, it is likely Dolly Varden occupy McCarthy Creek year-round and, therefore, deep pools provide important overwintering habitat.

Comment 42. On page 26 (Aquatic Populations, last paragraph), the NPS assumes the large Dolly Varden is anadromous because of size; this has not been verified by tagging studies or other means. (AK)

As noted in the referenced paragraph and elsewhere in the document, the NPS states that the large Dolly Varden could be either anadromous or fluvial.

Comment 43. The lack of nominations in the McCarthy quadrangle based on Dolly Varden populations is not necessarily indicative of scarcity. Generally, nominations for anadromous streams are based on the presence of salmon and/or steelhead. Once nominated, the protection afforded to anadromous streams protects all species in the stream. Dolly Varden are present in many streams in the Upper Copper River drainage. Dolly Varden are not an important subsistence, commercial, or sport fish species; and as a result, limited study has been directed towards this species and few nominations for streams specific to anadromous Dolly Varden have occurred. (AK)

While the NPS agrees that in and of itself this information is not necessarily indicative of scarcity, when considered in the context of all available data this information continues to support our position that similar populations within the Park are unknown at this time. Communication from ADF&G indicates that the presence of anadromous Dolly Varden in the McCarthy Area has not been previously documented (personal communication

12/2/03 with J. Johnson, ADF&G Sport Fish Division). In addition, we are unaware of any documentation of anadromous Dolly Varden in Park waters draining into the Copper River. If the Dolly Varden in McCarthy Creek are anadromous and the stream lacks any other anadromous species this may be further indication that the population is unique.

Comment 44. Sampling during a two-day period is not sufficient duration to conclude that anadromous Dolly Varden, if indeed they are anadromous, are rare in McCarthy Creek. (AK)

The EA notes that sampling has occurred in McCarthy Creek two different times during two different years. The EA also explains that existing surveys are inadequate to demonstrate the absence of any fish species, including the absence of specific life history stages. However, based upon the available data, including work performed by both the NPS and the ADFG in multiple Chitina River tributaries, the NPS believes that large fluvial or anadromous Dolly Varden are rare in McCarthy Creek

Comment 45. The EA notes: Should stream crossings occur while fish eggs are incubating in the channel (September through April) the deposition of fine sediment in salmonid redds is expected to result in reduced fry survival. Thus, the EA supports the applicants' needed summer access and seemingly contradicts the NPS' alternatives by indicating that the worst time to access the property using open water crossings is during the time fish eggs are incubating – September through April. (JPT, PLF)

The description of Alternative C (NPS Preferred) on page 14 of the EA states that "stream crossings would utilize ice or snow bridges. Open water crossings require advance approval by the Superintendent or designee." Stream crossings using ice or snow bridges are not expected to affect fine sediment levels in the stream channel and, therefore, would not affect incubating eggs. Open water crossings with potential effects outside of the range of effects described for the selected alternative would not be approved.

On the other hand, the access described under Alternative B could occur over open water during October or November, with no protective mitigation in place to prevent impacts on incubating Dolly Varden eggs.

Comment 46. My next concern would be for the water quality and the fisheries (Dolly Varden). How are petroleum spills going to be handled? What happens when the dozer breaks through the shelf ice or breaks down with a load of fuel? If the applicants have equipment breakdowns, who will be responsible for the repairs or removal? (JSH)

Petroleum spills, including spills related to a bulldozer breaking through shelf ice or breaking down with a load of fuel, would be handled as provided for in Stipulation # 20 in Appendix C (All spills...shall be reported to the Alaska Department of Environmental Conservation in accordance with Alaska law...). The applicants would be responsible for removing equipment that has broken down and removing fuel containers.

Comment 47. Regarding the effects of crossing the stream: compared with avalanche debris deposits every winter, and the rock glacier bulldozing its way into the stream year-round, the Pilgrims' nine round trips will have negligible effect. I should point out that the McCarthy Creek Dolly Varden survived decades of human influence from mining and stream-crossing activities prior to the Green Butte Mine's closure, which would have been much more severe. (GFD)

While it is often amazing that fish exist in extreme conditions in Alaska's waters, native fish species have adapted well to natural events. One of those adaptations is the timing of spawning to occur at the most optimal time in relation to other natural events occurring within a watershed. Past activities that have affected fish and fish habitat are discussed in the EA. While the population has persisted throughout the past activities, the viability of the population may have decreased in response to these actions. A population with lowered viability is likely to be less resilient to future impacts.

Comment 48. The access route that has been applied for crosses McCarthy Creek numerous times. There is a small population of Dolly Varden trout that are resident in the creek. It is unlikely they are anadromous, but this has not been resolved. The NPS tried to use the fish as a tool to help them close the road, but the Alaska State Fisheries officials have said in writing there is no problem. (Questionnaires)

The State of Alaska did not say "there is no problem," but instead noted that since McCarthy Creek is not currently listed in the "catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes," a Fish Habitat Permit Application need not be submitted by the applicants until (and if) McCarthy Creek is added to the Catalog in the 2005 regulatory cycle. For further comments and NPS responses on Dolly Varden in McCarthy Creek, refer to comments above.

CULTURAL RESOURCES IMPACTS

Comment 49. McCarthy Creek Road's historic value is further minimized by statements such as "the use of heavy equipment for access in the McCarthy Creek area could disturb or damage archaeological and historical resources in the area" (page 9). This is misleading at best. Such use may have indirect and minor adverse effects on cultural resources other than the McCarthy Creek Road. Any such effects pale, however, with the effects such use of Cat trains would have on the historic route itself. (MR)

The referenced statement describes potential impacts, but is not part of the impact analysis. The predicted impacts are described in detail in Section 4.5. The description of these predicted impacts is unchanged.

Comment 50. The first of the Secretary of the Interior's Standards for Preservation of Historic Properties, and those for Restoration, and those for Rehabilitation, are that " a property will be used as it was historically" or as near to historically as practical. Route use by traditional vehicles, and even more so it is maintenance with traditional materials

and equipment has, prima fascie, a beneficial effect on the historic resource. Widening the trail, or paving it, or building bridges, might be a different story, of course.

Both Alternatives A and C would deny maintenance and historic use of the route, and this seems clearly to be a substantial adverse effect on the historic resource. "Demolition by neglect" is explicitly listed as an adverse effect by Section 106 regulations, and this is precisely what will occur under these alternatives. (MR)

The NPS is currently working with the Alaska State Historic Preservation Officer on the 106 compliance for this project and has submitted a "Determination of Eligibility" for the historic resources in the valley for SHPO review. The historic roadway had fallen into disrepair years before the establishment of the Park and Preserve and significant flooding occurred, resulting in the degradation and in some cases elimination of components of the road, i.e. bridges. In some areas it is difficult to determine where the road was. NPS Management Policies, and historic preservation principles and practices, guide management of historic resources determined eligible for the National Register of Historic Places. The Determination of Eligibility will define the resources eligible... This evaluation and identification process will guide management decisions.

WILDLIFE IMPACTS

Comment 51. Correct the information on page 29 (Wildlife, 2nd paragraph) related to wildlife management by clarifying the distinct management authorities and responsibilities outlined in the Master Memorandum of Understanding between the NPS and ADF&G which states: The NPS recognizes the State as the agency with primary responsibility to manage fish and resident wildlife within the State of Alaska. In addition, the NPS agrees to manage fish and wildlife habitat on NPS lands so as to ensure conservation of fish and wildlife populations and their habitats in their natural diversity. (AK)

The correction is incorporated into the EA via this errata.

Comment 52. The state requests that the 9th bullet under Wildlife (page 31) be revised to remove the reference to "habituated to humans," as current studies indicate some forms of wildlife habituation to humans may actually increase awareness of human presence and reduce human-wildlife conflicts. (AK)

The bulleted information on page 31, including the statement about bears habituated to humans, reflects the findings of the 2003 NPS bear study for the McCarthy-Kennicott area.

Comment 53. References to increased bear conflicts during transportation of foodstuffs are exaggerated since all residents of and visitors to the Park must, and successfully do, deal with ferrying and storing food around our large bear population. (RW)

As noted in the EA (page 31), a recent bear study in the McCarthy-Kennicott area identified 91 reported human-bear conflicts in 2000 and 60 in 2001. The study indicated that the amount of road and trail access and the amount of off-road and off-trail travel, among other factors, positively correlated with the frequency of human-bear conflicts.

SOIL AND VEGETATION IMPACTS

Comment 54. The analysis shows that "minor adverse impacts to soil and substrate resources" would occur under Alternative B (Applicants' Proposal). Yet, in the vegetation section, Alternative B would create minor to moderate impacts with the "most damaging impacts" being the "churning of soils and destruction of the existing roots and ground cover mat." How can destruction of soils and ground cover be a minor to moderate impact for vegetation, yet the very same action is only a minor impact in the soils section? The impacts to soils and substrate should also be "minor to moderate." Furthermore, the impacts to soils and substrate and vegetation clearly impair those resources the Park was established under ANILCA to maintain: "the scenic beauty and quality of...foothills ... streams, valleys ... in their natural state." (NPCA)

The NPS found impacts to soils and substrate as only minor under the applicants' proposed access because most of the alignment is over floodplain gravels or other hardened surfaces from a previously bladed route. Only 12% of the route would be over the upland terrain unit, which contains soils with a high percentage of fines. Much of this area would be on flat surfaces and the soils and their potential productivity would not be lost. Crushing the vegetative roots and shoots in these and other gravelly areas, however, would set back vegetative recovery for some 10-20 years over a greater percentage of the access alignment. The total effects to soils and vegetation are not the same.

The NPS does not believe that the level of impact on soils and substrate and on vegetation would result in impairment of Park and Preserve resources and values.

VISITOR IMPACTS

Comment 55. Under EA Section 4.6, concern is mentioned about reluctance of visitors to use upper McCarthy Creek because of fear of trespass. Do not the survey and cut lines done in summer of 2003 remove this concern? (ELC)

The NPS has communicated with the applicant regarding this issue and believes that the presence of the physical property lines on the ground will be beneficial to them and visitors in delineating private versus public property.

OTHER ALTERNATIVES

Comment 56. If open water crossings are necessary, we recommend they be at shallow water, gravel substrate sites to protect fish and aquatic invertebrate populations. We also request the NPS protect aufeis areas as these indicate upwelling in the gravel and are often potential of existing fish spawning sites. (AK)

Thank you for your recommendation. Should the applicants request approval for open water crossings, The NPS will consider the recommendation.

Comment 57. As the NPS further evaluates the Dolly Varden population in McCarthy Creek and critical sites are determined, it may be possible to extend the travel season with minimal impacts on the Dolly Varden populations. (AK)

Further evaluations of the Dolly Varden population may be conducted; however, they are unlikely to be completed within the one-year time frame of the proposed temporary access.

Comment 58. The scope of the requested temporary access with a bulldozer should be limited to those large and heavy items which cannot be transported with existing authorized access by snowmobile, horse and wagon, or small airplane. These are one-time needs, not replenishing basic supplies. Two or three round trips with a bulldozer would be sufficient because the applicants counsel stated in a letter to the NPS dated October 21, 2003 that two or three "cat" trips would suffice and enable NPS to "get off the NEPA hook." The applicants have 9 horses and a wagon for summer transport, 44 airplane trips lifted supplies and food to their airstrip in October 2003, and the applicants continue to use snowmobiles and sleds throughout winter to transport food and supplies. (NPCA)

The applicants' request for temporary access is premised in part on the applicants' need to replace a structure and its contents that burned in the Spring of 2003. The NPS has no clear indication that fewer than nine round trips with a bulldozer would meet the applicants' needs; therefore, we analyzed impacts based on nine trips in the EA. As documented in the EA, with the mitigation and permit terms and conditions specified under Alternative C (NPS Preferred), issuing a special use permit for temporary access for a maximum of nine round trips with a bulldozer would not result in significant impacts to Preserve resources and values.

Comment 59. The NPS should consider allowing the applicants' access throughout the year, except during a short blackout date during spring break-up, similar to the State's weight restrictions on public roads (usually, the 3rd week in April through the 3rd week in May). (RS)

In their SF299 application and related correspondence, the applicants sought temporary access with a bulldozer pulling a sled on wheels or skids; the months referenced in the application materials were October and November. For this reason, year-round access

is beyond the scope of the proposal and, therefore, is not evaluated as an alternative in the EA.

Comment 60. The NPS should not regulate how many trips. The permittee should be able to make as many trips as necessary for planned as well as unforeseen freight or travel needs. The permits should be for access in general and not freight only. Nine round trips per year for a large family is way too little. (PLF, RS)

In their SF299 application and related correspondence, the applicants sought nine round trips with a bulldozer to transport building supplies, food, and other materials. The NPS used this information as a basis for the analysis.

Comment 61. There is no mention in the EA of other forms of oversnow transport. Numerous types of tracked vehicles are available that are suitable for load transport/sled hauling and cause much less damage than a bulldozer. Thiokols, LMCs, Bombardiers, Nodwells, etc. are widely available both new and used. Another type of transporter could be a small LGP trail cat towing a sled. (ELC)

The applicants requested use of a bulldozer, which was analyzed in the EA. The EA noted, "other comparable methods of transportation" also could be used.

Comment 62. Now would be a good time to establish policies regarding a spectrum of tracked vehicles other than snow machines that are both efficient transporters and kind to the Park resources. Maybe even designating some preferred types? Maybe skip the type and just designate a maximum allowable ground load? (ELC)

This suggestion is outside the scope of this proposal.

OTHER AGENCY PERMITS

Comment 63. Alternative B (Applicants' Proposal) would involve work in and/or placement of dredged and/or fill material into waters of the U.S. under the U.S. Army Corps of Engineers' regulatory jurisdiction. If this alternative is implemented, the applicant must obtain Department of Army authorization to do the work. Alternative C (NPS Preferred) would most likely not require a Department of Army permit. (USACE)

The above information is incorporated into the EA via this errata; however, the applicants must contact the USACE for a determination of the Department of Army permit requirements.

OTHER COMMENTS

Comment 64. I strongly invite your consideration to extend the public comment period until April 23, 2004. There are many people that intend to make public comments, but they need time to study this EA. (JS)

No other requests to extend the comment period were received; therefore, the NPS does not believe such an extension is warranted.

LIST OF COMMENTERS

AGENCY LETTERS
(With Substantive Comments)

1. U.S. Army Corps of Engineers (USACE)
2. State of Alaska (AK)

ORGANIZATION LETTERS
(With Substantive Comments)

1. Residents of Wrangells (ROW)
2. Pacific Legal Foundation (PLF)
3. Alaska Miners Association (AMA)
4. National Parks and Conservation Association (NPCA)
5. The Wilderness Society (TWS)
6. Alaska Center for the Environment (ACE)
7. The Sierra Club (SC)

BUSINESS LETTERS
(With Substantive Comments)

1. Rowcon Services (RS)

INDIVIDUAL COMMENT LETTERS
(With Substantive Comments)

1. Papa Pilgrim (aka, Hale)
2. Ed LaChapelle (ELC)
3. Marietta Paulus (MP)
4. Matthew Reckard (MR)
5. Thom Seal (TS)
6. Jim and Shirley Hannah (JSH)
7. Greg Durocher (GD)
8. Melvin Bennett (MB)
9. Meg Hunt (MH)
10. Natalie Wong (NW)
11. Dave Syren (DS)
12. Charlie Ricci (CR)
13. Beverly Tanru (BT)
14. Rick Kenyon (RK)
15. Paula Easley (PE)
16. Jane Hogan (JH)
17. Lee Ann Gerhart (LG)
18. Julie Smithson (JS)

QUESTIONNAIRES (176 received)
(With Several Substantive Comments)

INDIVIDUAL COMMENT LETTERS (35 received)
(Without Substantive Comments)

APPENDIX B

REVISED TERMS AND CONDITIONS OF PERMIT FOR ACCESS

The access alignment is shown and described by the attached maps and text description. Terms and conditions applicable to access along this alignment are described below.

GENERAL:

1. A D-5 caterpillar or smaller bulldozer pulling a trailer is the only vehicle authorized by this permit. Prior approval by the Superintendent is required if the applicant wants to substitute a comparable vehicle. This permit does not affect Applicants use of snowmachines (during periods of adequate snow cover), fixed wing aircraft, horse or foot for access.

2. Travel pursuant to this permit is authorized from the date of permit issuance to April 15, 2004; and from October 20, 2004 until either April 15, 2005 or the expiration of the permit (whichever comes first). Travel during the above identified periods is further conditioned upon the ground being frozen to a minimum depth of 6 inches and the existence of snow cover sufficient to protect the resources, typically more than 6 inches of snow. Stream crossings will utilize ice or snow bridges; these bridges must be strong enough to support permitted vehicles. Open water crossings require advance approval by the Superintendent or designee.

3. Before commencing access, the permittee will obtain all necessary State of Alaska permits and Department of Army permits. This permit does not authorize travel across private land. Applicant is responsible for securing permission to cross private land.

4. The Permittee shall notify the Superintendent 48 hours prior to the start of each trip. However, if after one or more trips are completed, and the site conditions still allow for access to proceed, this stipulation may be modified.

5. A maximum of 18 one way trips by bulldozer, with or without a trailer, is permitted

6. The permittee and the NPS will jointly conduct a reconnaissance along the proposed alignment to identify and determine how to avoid problem areas before a bulldozer is moved across the selected alignment. The Superintendent or his designees may accompany the permittee on any or all trips to insure permit compliance and direct alignment selection."

7. The permittee is responsible for ensuring that all employees, party members, operators, and any other persons working for or with the permittee comply with the permit.

8. The bulldozer will travel with the blade up except as necessary to build snow bridges at sites approved by the Superintendent. In addition two sections of the alignment, where material has slumped onto it, would likely need to be bladed again: 1) near the upper tunnel bypass and 2) along the river bank approximately one mile south of Marvelous Millsite. At the upper tunnel bypass, blading of soils would be within the existing disturbance, including side-cast. Other short sections of previously bladed side slopes or

slopes with recent cut and fill may be bladed with advance approval by the Superintendent.

9. Standing live trees with a diameter breast height (DBH) greater than 3 inches shall not be cut or cleared without advance approval by the Superintendent. No trees, regardless of size, within 300 feet of a water body may be cut or cleared without advance approval by the Superintendent.

10. The use of motorized vehicles to push, blade, or drag trees is not allowed. Removal of downed trees shall be by cutting the trees into lengths and placing them by hand lengthwise and parallel to the alignment.

11. Bulldozer operators will not execute tight turns by locking one track without advance approval by the Superintendent or his designee.

12. Debris, food and refuse generated by the permittee and/or his employees and coworkers will be removed from the preserve and disposed of in accordance with State and Federal law.

13. Any equipment which breaks down or becomes stuck (i.e., cannot be extricated by means of immediately available resources), during access will be reported as soon as possible to the Superintendent or his/her designees. Equipment must be removed or stabilized in consultation with the NPS.

Cultural Resources

14. The permittee shall not injure, alter, destroy, or collect any cultural resource site, structure, or object. Examples of cultural resources within the area of potential effect are mining camps, road construction camps, isolated cabins, tunnels, remains of bridge abutments, and associated features and artifacts.

15. If a cultural resource is inadvertently impacted by the permitted activities, the permittee shall cease the activity, protect the resource, and notify the Superintendent immediately.

Water Resources

16. A snow ramp or ice bridge must be constructed only of snow and water, and must be substantially free of soil and organic debris. If water is pumped from the creek to make an ice bridge, the intake of the pump hose must be screened to protect fish and their eggs.

17. The permittee will avoid impeding the passage of fish, disrupt fish spawning, adversely affecting over-wintering or nursery areas identified by the Superintendent or his/her designees. The permittee shall not permanently block off or change the character or course of any stream.

Fuel Transportation

18. Fuel for the bulldozer can be cached at a single location on NPS land along the access corridor provided the location of the fuel cache is at least 100 feet from the active stream channel of fish-bearing streams (McCarthy Creek, East Fork McCarthy Creek, Nikolai Creek). The fuel cache capacity is limited to 55 gallons. Secondary containment of

cached fuel will be achieved using overpack containers. Advance notification of 48 hours for the proposed fuel cache shall be provided to the NPS for review and approval. Fuel shall not be cached between April 15 and October 20, 2004. Refueling of the bulldozer may be allowed adjacent to fuel caches. When refueling the bulldozer, applicant must not leave equipment unattended while actively refueling. Absorbent materials will be used while refueling to collect any fuel that may be spilled during the refueling operations. A tarp or other secondary containment must be placed beneath equipment when refueling.

19. Fuel containers larger than 5 gallons in size must be transported within sealed over-pack drums of plastic or steel. Absorbent pads must be kept on the bulldozer while traveling within the park unit.

20. All spills of oil, petroleum products, and hazardous substances shall be reported to the Alaska Department of Environmental Conservation (ADEC) in accordance with Alaska law. Immediate actions will be taken to confine the spill to the smallest area. Discharge notification and reporting requirements from AS 46.03.755 and 18 AAC 75 Article 3 will be attached to the permit and are to be followed by the applicant.