

May 26, 2006

Ms. Marcia Blaszak, Regional Director
National Park Service
240 W. 5th Avenue
Anchorage, AK 99501

Re: Second Draft User's Guide for Alaska National Park inholders

Dear Ms. Blaszak:

On behalf of the Resource Development Council for Alaska, Inc. (RDC), I am writing to express our concerns with the National Park Service's (NPS) Second Draft User's Guide to Accessing Inholdings in a National Park Service Area in Alaska. While RDC appreciates the revisions incorporated into the improved second draft, we believe significant redrafting is necessary before the document fully acknowledges in a clear and precise manner our members' statutory rights ensuring adequate and feasible access to their park inholdings.

RDC is a statewide, non-profit, business association representing individuals and companies from each of Alaska's basic industry sectors — oil and gas, mining, timber, tourism and fisheries. RDC's membership also includes each of Alaska's thirteen Native Regional corporations, many of the state's largest communities, organized labor and industry support firms. RDC brings these diverse interests together to advocate for the responsible development of Alaska's natural resources.

For more than two decades RDC has worked to ensure that our members and other Alaskans are able realize the access rights they were afforded under the Alaska National Interest Lands Conservation Act (ANILCA). RDC believes a well-constructed User's Guide which fully recognizes our members statutory interest in access will be a valuable resource. RDC welcomes a number of changes apparent in the second draft, including extended terms of permits and a waiver to certain fees. The Park Service should be credited for these and other changes suggested by RDC and others. However, the process has fallen short, and although the second draft is better than the first, other basic problems remain to be resolved.

With regard to the process, RDC recommends the National Park Service develop a workshop structure directly involving the primary stakeholders in this issue, including many of our members such as the University of Alaska, Doyon Limited, Chugach Alaska Corporation, and the Alaska Miners Association. Except for the State of Alaska, these stakeholders and others were excluded from the initial drafting of the User's Guide, and then were allowed to comment on the first draft only by letter, as members of the general public. A process that invites only written comments from primary stakeholders is inadequate as it limits inholder participation and is one-sided. In contrast, the workshop structure would encourage face-to-face contact with those writing the User's Guide and foster dialogue between primary stakeholders and Park Service officials.

RDC recommends the Park Service withdraw the Draft User’s Guide, then involve primary stakeholders (inholders) in such a process that invites their active, direct participation in a workshop structure which opens the User’s Guide to re-drafting. Following such a process, a new User’s Guide reflecting the direct participation of those who are most affected by its content, would emerge.

Another concern of our members is the User’s Guide gives only the most passing and indirect reference to specific ANILCA requirements that inholders be “assured” and “guaranteed” reasonable and feasible access to their property. As currently drafted, the User’s Guide appears to minimize the importance of the statutes which create rights of access and which guide agency actions in this area. The User’s Guide needs to recognize in a more meaningful way the statutes which assure access. The best way is to include a provision in the guide that directly quotes the statute and legislative history.

While the second draft of the User’s Guide made progress to the process of obtaining permits, RDC believes the process remains burdensome and inconsistent with ANILCA because it still acts to delay, discourage or prevent adequate and feasible access. The Guide continues to lack clear guidance on when permits are required and times required for issuance of a permit are inconsistent with language and intent of ANILCA. Please refer to University of Alaska’s May 2006 comments (page 6). The Guide should be revised to ensure short permit processing times consistent with adequate and feasible access.

In addition, RDC agrees with the University that this process is in essence a rule-making and should follow ordinary rule-making procedures. Because the User’s Guide effectively sets standards and requirements for permits, and also alters the content and application of existing rules, the rule-making process should be followed.

In addition to the comments provided above, the remaining relevant points raised in our original comments (May 12, 2005) on the first draft of the User’s Guide, should be considered by your agency as it moves forward.

RDC supports your work to provide inholders with meaningful guidance regarding access to their property, and we urge you to make this process as user-friendly as possible. The views of primary stakeholders such as Alaska’s Native Regional Corporations, the University of Alaska, the Alaska Miners Association, the State of Alaska and others must be incorporated in a meaningful way into the final document for it to be effective in meeting the goal of providing adequate and feasible access to inholders. In light of Congress’ specific statutory protections for inholder rights, it is paramount the User’s Guide be in direct alignment with ANILCA where the statutes so clearly grant broad rights of access to inholders, and where preserving access rights was so central to the intent of ANILCA.

Thank you for considering RDC’s comments.

Sincerely,

Carl Portman
Deputy Director

cc: Ms. Drue Pearce, Department of the Interior
Mike Menge, Commissioner, Alaska Department of Natural Resources