

Reply to: 2720

Date: May 1, 1987

Dear Alaskan:

The USDA Forest Service is implementing a program that will permit the limited use of certain existing cabins on National Forest lands constructed prior to December 2, 1980.

Under this program, continued use of qualifying unauthorized cabins constructed prior to the Alaska National Interest Lands Conservation Act (ANILCA), December 2, 1980, may be allowed if continued use does not conflict with the public interest. This use will require a special use permit.

On December 2, 1980, ANILCA became law. The bill provided for the classification of most public lands in Alaska. The management and administration of certain lands issues is also directed. In Section 1303(b) of ANILCA, the authorization for the permitting of cabins constructed prior to ANILCA is discussed with limiting criteria. Recommendations for the implementation of Section 1303(b) were made on November 19, 1984, by the Alaska Land Use Council (ALUC). Copies of the ALUC recommendations and Section 1303(b) of ANILCA, as well as a fact sheet concerning questions and answers regarding the permitting of cabins, are enclosed for your review.

Briefly, ANILCA allows for the issuance of permits for certain cabins built before December 2, 1980, that are not currently under permit. Permits may not be issued for private recreation or mining uses. Mining uses are covered by the U.S. Mining Law of May 10, 1972, as amended. Permits are renewable 5-year permits, nontransferable and valid only until the death of the last immediate member of the claimant family residing in the cabin on December 2, 1980, or unless revoked earlier due to a demonstrated detriment to the public interest and use of the area.

Claimants must agree to vacate and remove the cabin or structure within the time stipulated on the permit if the permit is terminated or not renewed. Qualifying applicants may apply for one cabin permit. Applicants are limited to one per family. Applications by organizations, corporations, or commercial groups will not be accepted. Applications will be accepted until 4:30 p.m. on August 1, 1987. Cabins for which an application has not been received by this date will be subject to appropriate review and action under prevailing laws and regulations regarding unauthorized occupancy of National Forest land.

Additional information and applications may be obtained at local Forest Service offices as provided on the enclosed list.

Sincerely,



MICHAEL A. BARTON
Regional Forester

**FACT SHEET
FOR
PERMITTING OF UNAUTHORIZED CABINS
CONSTRUCTED PRIOR TO DECEMBER 2, 1980**

1. Who can apply for a permit?

A citizen of the United States 18 years or older who claims an interest in an existing cabin constructed prior to December 2, 1980, which is on National Forest land.

2. What conditions will be placed in my permit if I qualify?

The following partial list of conditions will be mandatory on all permits for all cabins authorized by this authority.

- a. Tenure—5 years, renewable permit limited to life tenure of the immediate family as named on the permit.
- b. Agreement to vacate the cabin and remove within a specified period of time all personal property upon non-renewal or revocation of permit.
- c. Acknowledge no interest in land on which the cabin is located.
- d. Permit is non-transferable.
- e. Permit is limited to non-recreational, customary and traditional uses.
- f. No commercial or other assigned use than immediate family. (No sublet.)
- g. No proprietary right or privileges.

3. For what purposes may I obtain a permit for my cabin constructed prior to December 2, 1980?

For customary and traditional uses only. Permits cannot be issued for recreational purposes.

4. May I use a permitted cabin for commercial purposes, such as guiding, charter or commercial fishing?

No, not under this program. Commercial uses must be applied for separately.

5. May more than one individual or corporation, association or group make application for a cabin?

No, permits will be made to individuals with right of survivorship to immediate members of the family presently using facilities. Family is defined as parents and children residing in the same household as of December 2, 1980, who used the facilities prior to that date. Corporations, associations, or groups will not be issued a permit.

6. If more than one person or a group claims a cabin, how can they get a permit?

The parties involved will need to get together and select one person (family) to be issued a permit. Permits may be issued to one family only.

7. How many cabins may I apply for?

Only one per applicant and household.

8. How much will the annual fee for the permit be?

The initial fee will be based on 5 percent of a 1982 appraisal made for the Tongass NF and most recent appraisal available on the Chugach NF, corrected to a 1987 value by applying the gross national product deflator (implicit price deflator). Land values will vary depending upon site location, utility, and proximity to water frontage. Fees will range from approximately \$400 to \$1000 per year.

9. If I have a cabin constructed prior to December 1980 on National Forest land, will I automatically get a special use permit?

Not necessarily. A permit may not be issued if there are known conflicts for which the specific area is used or was established. No special use permits can be issued to authorize cabin use for recreational purposes.

10. How long is the special use permit good for?

Permits are for five years and are renewable. Permits will not be renewed beyond the death of the last immediate family member whose name is on the permit at the time of issuance and is assigned survivorship. Permits will be issued only one time and renewed by amendment. Permits are non-transferable.

11. Under what authority can a pre-ANILCA cabin be permitted?

Section 1303(b) gives the authority and direction.

12. Can permits be revoked or renewal refused?

Permits may be terminated for non-compliance with the terms of the permit or when there is a demonstrated conflict with the purposes for which the area is used, or was established. Termination for reasons involving conflicts with public interest and use of an area will be done only after specific findings following public notice. Permits may not be transferred.

13. What information must I provide to have my application processed?

The following information must be provided for processing a permit application:

- a. Reasonably demonstrate by affidavit, or bill of sale, or other documentation, proof of possessory interest or right of occupancy in the cabin prior to December 2, 1980. False or fraudulent information can constitute a felony.
- b. Provide a dated photograph of the cabin and associated structures along with a map showing the location of the cabin.
- c. Fill out an application form providing the information requested.

14. What does non-transferable mean?

A cabin cannot be sold, given away, transferred, or otherwise disposed of by the permittee. One permit will be issued with the names of all qualified family members. No additional permit will be issued for this cabin to any other person. Upon the death of the last person whose name is on the permit, or by prior arrangements of permittees with the Forest Service, the permit will terminate.

15. If my application is refused, may I appeal the decision?

Opportunities to appeal any denial may be made under 36 CFR 211.18.

16. Can I remove my cabin and personal property from National Forest land after I receive a permit?

Yes, cabins can be removed at any time or the title may be quitclaimed to the Government with prior notification to the Forest Service.

17. If I am not issued a permit for this use, may I remove the cabin?

Yes. Arrangements can be made to remove the cabin within a reasonable period.

18. May I apply for a permit if my cabin was constructed after December 2, 1980?

Generally, ongoing uses and area administration do not require a permanent structure and would be disallowed if applied for.

Section 1303(b)(1) of ANILCA allows new cabins to be permitted only where necessary for administration of area or as necessary for continuation of an ongoing activity or allowed use where no reasonable alternative site exists. Additionally, Section 1303(b)(4) requires the Government to own all new cabins. Permits cannot be allowed for recreational uses and are limited to 5 years.

Where new unauthorized cabins are claimed by individuals, the opportunity may exist to quitclaim interest in existing cabins to the Government and then make the cabins available to the public.

19. Will there be future application periods to permit cabins constructed prior to December 2, 1980?

This is a one-time opportunity for those persons who can demonstrate a valid interest to a cabin that they used prior to December 2, 1980. All cabins constructed after this date or cabins of persons failing to apply for a special use permit will be handled as an unauthorized trespass on National Forest land.

20. Can I build a new cabin or add to an existing cabin once I receive my permit?

No, only routine maintenance will be allowed.

21. Does the permit grant me any rights to the land the cabin is on?

No, the permit will be for use of the cabin only. No proprietary rights or privileges may be granted. Public use of the lands and water surrounding the cabin will be allowed and are subject to forest management activities.

22. May I sell my cabin and transfer the special use permit?

No, permits are non-transferable. Permits will be issued only to the individual family providing proof of possessory rights and occupancy prior to December 2, 1980, on a one-time basis.

23. What facilities may I make application for?

Only those original structures in place on December 2, 1980.

24. For what reasons can my application for special use permit be refused?

Issuance of permits can be refused for several reasons. The most common reasons denial can occur include: If the applicant claims recreation use of the cabin, the cabin is not on National Forest land, if prior existing rights exist, or when the use of the site is not compatible with the approved land use plans of the area or the use may cause significant detriment to the principal purposes for which the area was established, the cabin was constructed after December 2, 1980, or false or fraudulent statements were made on the application.

25. Will cabins on mining claims be permitted under this program?

No, regulations pertaining to mining claims are covered by the U.S. Mining Laws of May 10, 1872, as amended. ANILCA 1303(b) covers only customary and traditional uses with a definite tenure and restrictions for users.

26. If my cabin was constructed after December 2, 1980, will I be given the same opportunity to apply for a similar type permit?

No similar program is anticipated for post-ANILCA cabins. Section 1303(b)(1) allows for new cabin permits only under very limited conditions.

**APPLICATION
FOR PERMITS FOR EXISTING CABINS
ON NATIONAL FOREST LAND IN ALASKA**

THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF DECEMBER 2, 1980, SECTION 1303(b)(2) STATES THAT UNDER SPECIFIC QUALIFYING CIRCUMSTANCES, CABINS AND OTHER STRUCTURES ERECTED ON NATIONAL FOREST LANDS PRIOR TO DECEMBER 2, 1980, COULD BE AUTHORIZED BY PERMIT TO REMAIN IN PLACE.

APPLICATIONS ARE BEING ACCEPTED ONLY FOR THOSE CABINS PLACED ON NATIONAL FOREST LAND IN ALASKA BEFORE DECEMBER 2, 1980, WHICH ARE NOT CURRENTLY UNDER SPECIAL USE PERMIT.

APPLICATIONS MUST BE RECEIVED BEFORE 4:30 P.M., AUGUST 1, 1987, AT ONE OF THE SPECIFIED FOREST SERVICE OFFICES. CABINS FOR WHICH AN APPLICATION HAS NOT BEEN RECEIVED BY THE DEADLINE WILL BECOME THE PROPERTY OF THE UNITED STATES GOVERNMENT AND WILL EITHER BE RETAINED AS GOVERNMENT PROPERTY OR REMOVED UNDER PREVAILING RULES AND REGULATIONS.

ADDITIONAL INFORMATION AND APPLICATIONS MAY BE OBTAINED AT LOCAL FOREST SERVICE AND RANGER DISTRICT OFFICES AS PROVIDED FOR ON THE ENCLOSED LIST.

**USDA, Forest Service
Alaska Regional Office, Lands, Minerals and Watershed
5th Floor, Room 503, Federal Building
P.O. Box 021628, Juneau, Alaska 99802
Telephone: 586-7847**

THE FOLLOWING ITEMS MUST BE SUBMITTED AND MADE A PART OF THIS APPLICATION:

- () DATED PHOTOGRAPH(S) OF ALL STRUCTURES FOR WHICH THIS APPLICATION IS BEING FILED
- () SUITABLE MAP SHOWING LOCATION OF STRUCTURES
- () ACCEPTABLE DOCUMENTATION OF OWNERSHIP OR RIGHT TO OCCUPANCY
- () ACCEPTABLE DOCUMENTATION OF THE ACTIVITIES YOU ENGAGE IN AT THIS CABIN

I UNDERSTAND THAT THIS APPLICATION IS ONLY FOR PERMITS SUBJECT TO THE AUTHORITY DESCRIBED IN SECTION 1303(b)(2).

I UNDERSTAND THAT IF A PERMIT IS ISSUED, I WILL BE REQUIRED TO VACATE THE PREMISES AND REMOVE ALL IMPROVEMENTS AT THE TIME OF TERMINATION OR REVOCATION.

I UNDERSTAND THAT IF A PERMIT IS ISSUED, I WILL HAVE NO INTEREST IN THE REAL PROPERTY ON WHICH THE CABIN IS LOCATED AND I WILL NOT PURSUE INTEREST IN THE REAL PROPERTY.

I UNDERSTAND THAT MY DOCUMENTED USES AS SUBMITTED ARE THE ONLY USES WHICH ARE ALLOWED AT THIS CABIN UNDER THIS AUTHORITY AND THAT USES OTHER THAN THESE ARE GROUNDS FOR REVOCATION OF THE PERMIT.

I UNDERSTAND THAT MODIFICATION, RECONSTRUCTION, OR REPLACEMENT OF THE CABIN WILL NOT BE ALLOWED. ONLY ROUTINE MAINTENANCE WILL BE ALLOWED.

I UNDERSTAND THAT OTHER PERSONS MAY HAVE LEGITIMATE CLAIMS TO THE PUBLIC LAND THIS STRUCTURE(S) IS LOCATED UPON AND THAT MY USE OF THE LAND MAY NOT INTERFERE WITH THEIR LEGITIMATE USES.

I UNDERSTAND THE PERMIT, IF ISSUED, IS NON-TRANSFERABLE AND TERMINATES UPON DEATH OF THE LAST FAMILY NAME ENTERED ON THE PERMIT.

I UNDERSTAND IF A PERMIT IS ISSUED, I WILL HAVE TO AGREE TO RELINQUISH IT IF THE PUBLIC LAND AT OR ADJACENT TO THIS STRUCTURE(S) IS NEEDED FOR A HIGHER AND BETTER PUBLIC USE.

I AGREE TO INDEMNIFY THE UNITED STATES GOVERNMENT AGAINST AND HOLD IT HARMLESS FROM, ANY AND ALL CLAIMS, DEMANDS, SUITS, LOSS, LIABILITY AND EXPENSE FOR INJURY TO OR DEATH OF PERSONS AND DAMAGE TO, OR LOSS OF PROPERTY, ARISING OUT OF OR CONNECTED WITH, THE USES COVERED BY THIS APPLICATION AND ANY SUBSEQUENT PERMIT.

THIS INFORMATION IS BEING MADE VOLUNTARILY AND I DECLARE THAT THE FOREGOING IS TRUE, ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I UNDERSTAND THAT TO PROVIDE FALSE OR FICTITIOUS INFORMATION OR TO CONCEAL OR FRAUDULENTLY PROVIDE INFORMATION IN THIS APPLICATION MAY CONSTITUTE A FELONY (18 USC 1001) OR PETTY OFFENSE (36 CFR 261.3(b)).

Signature of Applicant

Date

SUBMIT APPLICATION BY MAIL OR IN PERSON TO ONE OF THE FOREST SUPERVISOR OR RANGER DISTRICT OFFICES ON THE ENCLOSED LIST.

DATE RECEIVED: _____ RECEIVED BY: _____



State Co-Chairman
Bill Sheffield
Governor

ALASKA LAND USE COUNCIL

P.O. Box 100120
Anchorage, Alaska 99510

(907) 272-3422



Federal Co-Chairman
Vernon R. Wiggins

Alaska Land Use Council

The Alaska Land Use Council, on November 19, 1984, approved the attached recommendations on Guidelines for the Use and Occupancy of Cabins on Public Lands in Alaska with following the modifications.

Item # 2 D, 2nd paragraph now reads:

Claimants with pending Native allotment applications, valid mining claims, or other valid claims under public land law are exempt from section 2 D of the above policy. Real property interests of such claimants will be determined through appropriate adjudication processes.

Item # 5, last sentence, now reads:

Trespass actions finalized administratively or judicially prior to 12/2/80 may not be affected by Section 1303.

Item # 8 now reads:

In implementing Section 1303(b) of ANILCA, federal agencies in Alaska are encouraged to consult closely with the Bureau of Land Management, the Bureau of Indian Affairs, and the U.S.D.O.I. Solicitor's Office to avoid adversely affecting the rights of claimants under the Native allotment program.

ALASKA LAND USE COUNCIL RECOMMENDATIONS

1. In implementing Section 1303 of ANILCA federal agencies in Alaska should adopt regulations which, to the extent allowed by their differing mandates are consistent across all agencies.

2. In implementing Section 1303 of ANILCA federal agencies in Alaska should adopt regulations which provide for the issuance of a permit to a claimant who by application:

A. Reasonably demonstrates by affidavit, bill of sale, or other documentation, proof of possessory interest or right of occupancy in the cabin or structure. Proof of actual occupancy during specific periods or for minimum length of time should not be required;

B. Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

C. Agrees to vacate the cabin and to remove all personal property from the cabin or structure upon expiration of the permit; and

D. Acknowledges in the permit that the applicant has no interest in the real property on which the cabin or permit is located.

Claimants with pending Native allotment applications, mining claims or other land claims are exempt from this section. Real property interests of such claimants will be determined through appropriate adjudication processes.

3. In renewing permits under Section 1303 of ANILCA for life of claimant and immediate family, federal agencies in Alaska are encouraged to adopt by regulation a definition of eligible immediate family members as follows: "last immediate family member of the claimant residing in the cabin or structure under permit" means any person related to the claimant by blood, marriage or adoption and whose eligibility as an immediate member is so declared by the claimant as a part of the initial permit application or as a part of the claimant's subsequent renewal applications.

4. In issuing permits under Section 1303 of ANILCA federal agencies in Alaska are encouraged to include only those conditions and stipulations that meet the following tests:

A. Permits issued under authority of Section 1303(b) - permit conditions and stipulations should be directly related to insuring that the customary and traditional uses are compatible with the purposes for which the unit or area was established. (The provisions of Section 1303(b) apply to federal public lands in Alaska other than those administered by the National Park Service.)

B. Permits issued under authority of both Section 1303(a) and (b) - permit conditions and stipulations should be directly related to insuring that customary and traditional uses will not cause significant detriment to the principle purposes for which the unit or area was established. (Section 1303(a) is specific to lands administered by the National Park Service.)

C. Specified periods of availability for use by the claimant of the cabin or structure should be avoided unless clearly necessary to insure compliance with criteria A and B above.

5. In implementing Section 1303 of ANILCA, federal agencies in Alaska are encouraged to adopt regulations that recognize that a claimant with a trespass action pending either administratively or judicially as of 12/2/80 may be entitled to apply for and receive a permit under Section 1303 of ANILCA if otherwise conforming to the requirements of law. Trespass actions finalized administratively and judicially prior to 12/2/80 may not be affected by Section 1303.

6. In implementing Section 1303 of ANILCA, federal agencies in Alaska are encouraged to adopt regulations specifying that permits issued under Section 1303 do not in and of themselves authorize commercial uses, but that such cabins or structures may be used for commercial purposes if such commercial uses are permitted under other appropriate agency authorities.

7. In implementing Section 1303(b) of ANILCA, federal agencies in Alaska are encouraged to develop and employ a consistent definition of "private recreation uses" as opposed to "customary and traditional uses." The definition of these two concepts is of particular importance in that permits under authority of Section 1303(b) may not be issued for private recreation use.

8. In implementing Section 1303(b) of ANILCA, federal agencies in Alaska are encouraged to consult closely with the Bureau of Indian Affairs and the USDI Solicitors Office to avoid adversely affecting the rights of claimants under the Native allotment program.

NEWS

U. S. DEPARTMENT OF AGRICULTURE

FOREST SERVICE ALASKA REGION

Office of Information, P.O. Box 1628, Juneau, Alaska 99802

CONTACT: Wanita Williamson

TELEPHONE: (907)586-8849

IS YOUR CABIN ON NATIONAL FOREST LAND?

Juneau, AK, May 1, 1987--Forest Service offices located throughout Alaska are accepting applications for special use permits from persons with cabins and other structures placed on National Forest lands prior to December 2, 1980, the date the Alaska National Interest Conservation Lands Act (ANILCA) was signed. Cabin owners must apply for a special use permit before 4:30 p.m., August 1, 1987. Persons with existing special use permits for private recreation cabins, cabins used for commercial purposes and mining, are not affected by this requirement and need not reapply.

Special use permits are being issued to qualifying applicants to permit use of certain cabins that were placed on National Forest lands before December 2, 1980, if continued use does not conflict with the public interest. The Forest Service is authorizing qualifying cabins as quickly as possible upon receipt of applications. Fees will be charged for the cabins based on a percentage of the cabin site market value and will generally be in excess of \$400 per year.

Federal and State agencies, coordinating with the Alaska Land Use Council, developed guidelines to permit use of cabins being used for traditional and customary uses before December 2, 1980, based on Section 1303(6) of ANILCA. Each agency is responsible for implementing the guidelines for their particular lands.

Regional Forester Michael A. Barton said, "Unfortunately, there will be some cabins which do not qualify because they were built after December 2, 1980, or for some other reason. These cases will be resolved on an individual basis." He added, "We believe our approach is fair and equitable. The



REGIONAL OFFICE

USDA Forest Service
Federal Building
P.O. Box 021628
Juneau, Alaska 99802-1628
Regional Forester: Michael A. Barton
Phone: (907) 586-8863

CHUGACH NATIONAL FOREST

201 E. 9th Avenue, Suite 206
Anchorage, Alaska 99501-3686
Forest Supervisor: Dalton Du Lac
Phone: (907) 271-2500

Seward Ranger District
Chugach National Forest
P.O. Box 390
Seward, Alaska 99664
District Ranger: Duane Harp
Phone: (907) 224-3374

Cordova Ranger District
Chugach National Forest
P.O. Box 280
Cordova, Alaska 99574
District Ranger: Kurt Nelson
Phone: (907) 424-7661

Anchorage Ranger District
Chugach National Forest
12050 Industry way
Huffman Business Park, Bldg. C
Anchorage, Alaska 99515-3215
District Ranger: John Knorr
Phone: (907) 345-5700

TONGASS NATIONAL FOREST, KETCHIKAN AREA

Federal Building
Ketchikan, Alaska 99901
Forest Supervisor: Win Green
Phone: (907) 225-3101

Craig Ranger District
Tongass National Forest
P.O. Box 145
Craig, Alaska 99921
District Ranger: Gary Laver
Phone: (907) 826-3271

Ketchikan Ranger District
Tongass National Forest
3031 Tongass
Ketchikan, Alaska 99901
District Ranger: Dick Coose
Phone: (907) 225-2148

Thorne Bay Ranger District
Tongass National Forest
PO Box 1
Thorne Bay, Alaska 99919
District Ranger: Peter L. Johnston
Phone: (907) 828-3304

Misty Fiords National Monument
Tongass National Forest
3031 Tongass
Ketchikan, Alaska 99901
Monument Manager: Robert Latham
Phone: (907) 225-2148

TONGASS NATIONAL FOREST, CHATHAM AREA

204 Siginaka Way
Sitka, Alaska 99835
Forest Supervisor: Kenneth W. Roberts
Phone: (907) 747-6671

Sitka Ranger District
Tongass National Forest
204 Siginaka Way
Sitka, Alaska 99835
District Ranger: Craig Courtwright
Phone: (907) 747-6671

Hoonah Ranger District
Tongass National Forest
P.O. Box 135
Hoonah, Alaska 99829
District Ranger: Ron Quilliam
Phone: (907) 945-3631

Juneau Ranger District
Tongass National Forest
8465 Old Dairy Road
Juneau, Alaska 99801
District Ranger: Steve Ambrose
Phone: (907) 789-3111

Admiralty Island National Monument
Tongass National Forest
P.O. Box 2097
Juneau, Alaska 99803
Monument Manager: Ken Mitchell
Phone: (907) 789-3111

TONGASS NATIONAL FOREST, STIKINE AREA

P.O. Box 309
Petersburg, Alaska 99833
Forest Supervisor: Robert Lynn
Phone: (907) 772-3841

Petersburg Ranger District
Tongass National Forest
P.O. Box 1328
Petersburg, Alaska 99833
District Ranger: Joe Chiarella
Phone: (907) 772-3871

Wrangell Ranger District
Tongass National Forest
P.O. Box 51
Wrangell, Alaska 99929
District Ranger: Keene Kohrt
Phone: (907) 874-2323

