

Proposed Policy Revision for Privately Owned “ANILCA cabin” Permits on Alaska’s National Forests
Almquist Comments - March 9, 2024

To:

Janelle Crocker, Region 10 Acting Regional Forester
Jennifer Berger, Region 10 Public Services Program Lead
Frank Sherman, Forest Supervisor Tongass National Forest
Earl Stewart, Forest Supervisor Chugach National Forest

Submitted via: fs.usda.gov/goto/nilca-cabins-comment

Please accept the following comments respectfully submitted in response to the Proposed Revision to Alaska Region Supplement Forest Service Handbook 2709.11, Chapters 40 and 50: Alaska National Interest Lands Conservation Act Cabin Policy, and Associated Permit Terms and Conditions.

Introduction:

I am a retired Northern Region, Bitterroot NF employee, with over 30 years of diverse duties ranging from lookout, firefighting & tree-planting to nearly 20 years as a wilderness ranger involved with numerous Minimum Requirements Analysis (MRA) processes, that followed by my last five as BNF outfitter permit administrator, coordinating with both Montana and Idaho Licensing Boards, Fish & Game, and state outfitter associations. While I didn’t work directly with recreation residences, I have ample experience with Special Uses Administration and NEPA!

In the late 1980s, I met and was mentored through decades by two wilderness champions: Stewart Brandborg, who worked closely with Howard Zahniser (principle author of the Wilderness Act), becoming Executive Director of the Wilderness Society and in the room as Johnson signed the 1964 Act, then intimately involved, along with the Murie’s, advocating for ANILCA; and William Worf, who, after the Act was passed, became one of the Northern Region specialists sent to hole up in a cramped room in DC and develop FSM and FSH for wilderness management (years later starting Wilderness Watch). These comments are intended to honor their insights into and commitment to the philosophical and statutory intent of the Wilderness Act.

General Comments:

The 1980 Congressional intent that the Alaska National Interest Lands Conservation Act protect the traditional and customary uses of then existing cabins by claimants with “possessory interest or right of occupancy” was clearly stated in Sections 1303 (a) and (b) – for, respectively, cabins or other structures existing prior to December 18, 1973 on National Park System Lands or, on other units or areas established or expanded by the Act, for the occupancy or use which commenced between that date and December 1, 1978.

Congressional intent that this use be phased out was also clearly stated in key sections limiting permit renewals to the immediate living family members and legal interest/ownership to the United States:

- Section (c): “PERMITS TO BE RENEWED FOR LIFE OF CLAIMANT AND IMMEDIATE FAMILY (1) Whenever issuance of a nontransferable renewable five-year special use permit is authorized by subsections (a) or (b) of this section, said permit shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure [circa 1980], or unless the Secretary has revoked the special use permit in accordance with the criteria established in this section [emphasis added].”

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- Sections (a)(1)(d); (a)(2)(d) and (b)(3)(d). No special use permit shall be issued...unless the permit applicant “Acknowledges in the permit that the applicant has no legal interest in the real property on which the cabin or structure is located.”
- Section (b)(4): The United States shall retain ownership of all new cabins and related structures on Federal lands within a unit or area specified in this subsection, and no proprietary rights or privileges shall be conveyed through the issuance of the special use permit authorized by paragraphs (1) or (2) of this subsection.

Your proposal’s purpose and need appear to be that “Many cabin owners and their families have long sought a change in the way the Forest Service manages special use permits for their cabins”. It then changes FSH by:

- Dropping the requirement that claimants be 1980 immediate family members still living and instead authorizes continued use, apparently solely, by “so long as the cabin is used for traditional and customary purposes.” You disclose no other proposed requirements limiting ANILCA cabins. You must disclose specific proposed language changes to Alaska Region Supplement Forest Service Handbook 2709.11, Chapters 40 and 50: Alaska National Interest Lands Conservation Act Cabin Policy, and Associated Permit Terms and Conditions so the public can make informed comments.
- Rescinding 2709.11-2006-3, Ch 40 “Exhibit 2”, an exhibit that met ANILCA’s statutory language and clarified that “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.”
- Creates a new, yet undetermined FSH code for “Alaska Traditional & Customary Use Cabins” that would be used to amend 114 Shelters (morphing a code previously used for recreation-related shelters to also include ANILCA use), 121 Isolated Cabins, 123 Recreation Residences, 374 Pre-ANILCA Cabins and 513 Commercial Fishing Cabins & Warehouses. You must disclose specific proposed language for the public to make informed comments.
- Authorizing, for Traditional and Customary uses in section 40.05 of the new policy, that current permits may be reissued prior to expiration dates.

While natural that folks want to begin or continue using these cabins, your responsibilities are to stewardship of ANILCA lands, not proposing FSH contrary to Public Law or by pre-decisional “working directly with individual cabin owners to ensure that no owner has to relinquish their cabin while the proposed policy revision is under review.” Unless Congress acts to amend ANILCA, this proposal, at odds with Public Law, will assuredly be challenged in court!

In addition, a proposal with this scope, affecting multiple needs to be in the Federal Register and, at minimum, be analyzed in an EIS.

Closing Comments:

In 1962, while drafting the Act, Howard Zahniser, principal author, explained that “The purpose of the Wilderness Act is to preserve the wilderness character of the areas to be included in the wilderness system, not to establish any particular use.” The 1964 Wilderness Act describes this statutory intent in Section 4(b) of the Act, stating that, while the agency administers the area for public purposes

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(recreational, scenic, scientific, educational, conservation, and historical use), the agency must provide for the protection of those areas and preservation of their wilderness character.

Designated by [ANILCA](#), 33 million acres of Congressionally designated [wilderness](#) in the Alaska parks accounts for about 30% of the nation’s wilderness, this combined with approximately 18 million acres that are [eligible](#) for inclusion in the National Wilderness Preservation System, Alaska NPS wilderness encompass watersheds, mountain ranges, glaciers, wetlands, coastlines, volcanoes, tundra, forests, and [wild and scenic rivers](#).

While previously existing public use cabins within wilderness designated by this Act were permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area, this proposal has no analysis of effects to the wilderness character of proposed changes to these 51,000,000 acres of wildlands. You must rescind this proposal and instead base your decision on a fully defensible stewardship of ANILCA lands!

Respectfully,

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