

HJR

43

Alaska State Legislature

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Senate Committee on Resources

April 26, 1983

Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: SJR 25, Birch and Beaver Creek Wild Rivers

The 1980 Alaska National Interest Lands Conservation Act (ANILCA) designated a number of rivers in Alaska as "wild rivers" under the National Wild and Scenic Rivers System. Included in these designations were Beaver Creek and Birch Creek which are located north of Fairbanks.

At the time of study of these rivers little placer gold mining was occurring in the region due primarily to low gold prices. However, the Circle gold district which both the rivers are located in was one of the first placer districts in Alaska and was among the leading producers of gold over much of the past century (dating back to 1890). With the resurgence of gold prices dramatic increases in placer mining activity have occurred on many of the tributary streams to both Beaver and Birch Creek. Consequently, many problems and conflicts are currently taking place centering on water quality, access, navigability determinations of the waters involved and other users of the river areas. Most of these problems are directly related to the wild river designations which have caused intensified management efforts and stricter environmental standards and regulations to be applied.

In an effort to recognize the multiple use values of these river areas, particularly mineral values and activities, the resolution would ask Congress to amend ANILCA to delete wild river designation of the two rivers.



Citizens' Advisory Commission on Federal Areas

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March 4, 1983



MAR 14 1983

DRAFT

Carl D. Johnson
District Manager
Fairbanks District Office
Bureau of Land Management
P.O. Box 1150
Fairbanks, Alaska 99707

Dear Carl:

We are enclosing the Commission comments on the Draft River Management Plan for the Birch Creek National Wild River. These comments represent the issues which are of primary concern to the Commission and the different user groups which will be affected by the management plan.

On an overall basis, the draft management plan is written with an unconcealed bias against placer mining operations. There are many editorial comments contained in different sections of the plan which have no place in a document designed to establish management prescriptions.

The plan fails to take into consideration the considerable economic impacts on Fairbanks and the Central area if mining activity in the Birch Creek watershed is unduly restricted or curtailed. This information was not analyzed in the Environmental Impact Statement and appears nowhere in the draft river plan. Such an impact should be considered before the final river plan is developed.

On the attached pages we have identified five issues which we feel are extremely important and which are discussed at length. Following this discussion are specific comments relating to the plan.

To this point the people in your office have been extremely helpful in providing us with the information we needed to develop this commentary. It has been very useful for the staff to be able to meet with BLM personnel and discuss the issues face to face. We look forward to continuing this working relationship in developing the final plan for the Birch Creek Wild River.

Sincerely,

Bettye Fahrenkamp, Chairman
Alaska State Senator

BIRCH CREEK WILD RIVER DRAFT MANAGEMENT PLAN

GENERAL DISCUSSION

1. BOUNDARY DETERMINATION
2. NAVIGABILITY
3. ACCESS
4. VIEWSHEDS
5. WATER QUALITY

1. Boundary determination. The draft plan states the boundary of Birch Creek Wild River will be located within Section 25, Township 7N, Range 10E, Fairbanks meridian. Section 603, paragraph 46 of ANILCA states that the segment of Birch Creek which will be designated a wild river begins on the south side of the Steese Highway, but mentions no specific section, nor does any piece of legislative history.

The Final Environmental Impact Statement for the proposed Birch Creek National Wild River prepared by the Department of the Interior in 1974, stated the proposed corridor was to begin in the vicinity of the confluence of North Fork Creek and Birch Creek. This point is located at approximately river mile 5 in the Draft River Plan. This administrative addition of five miles to the wild river segment of Birch Creek adds over 3,000 acres to the river corridor. Persons originally responsible for studying the location of the boundary state conclusively there was never any intention of extending the river corridor to Butte Creek.

To further augment this position, page 9 of the Draft River Plan states that placer mining activity has made it difficult and often impossible to float the first 3 miles of the river. This activity would indicate that most of the first 5 miles of the proposed river corridor do not meet the criteria for designation as a wild river. It further states that most float trips begin at river mile 5, the originally proposed beginning of the wild river segment.

The discretionary power which BLM has used to move the river endpoint five miles, should be used to move that boundary back to the confluence of the North Fork Creek and Birch Creek. This action would simplify management of the wild river and its corridor and help avoid any potential conflicts between recreational boaters and placer mining operations.

2. Navigability.

The State has asserted that all waters in Alaska are navigable while federal agencies ignore this argument. There is much available material and historical references to prove that Birch Creek is, and has been, a corridor of commerce in fact, and as such, is a corridor of commerce in

law. While it remains the responsibility of the Department of Natural Resources and the Department of Law to formally assert the navigability claim, it is essential that this fact be considered in the draft plan.

3. Access. Access to valid mining claims and along existing RS 2477 rights-of-way must be insured. ANILCA guarantees access to inholdings and valid mining claims (Sec. 1110).

In addition, the Senate Committee on Energy and Natural Resources Report 96-413, contained in the legislative history of ANILCA, states:

"In Administering wild and scenic rivers in Alaska, the Committee expects the appropriate Secretary to carefully consider access needs in terms of the special authority granted him in Title XI of the Committee amendment. Holders of mining claims, for example, may need access up and down proposed wild and scenic rivers or study rivers in connection with various mining activities. Likewise, inholders should not be denied reasonable access to their inholdings as a result of wild and scenic river designation."

Existing State rights-of-way within or through the corridor should be recognized. In the Final EIS the State of Alaska submitted comments which dealt with existing rights-of-way along a number of surface transportation routes and along protracted section lines. The response from BLM indicated that these rights are recognized. Recognition of these rights should be included in the appropriate section of the river plan.

In addition, BLM should work with individual miners while preparing the management plan so that they can be assured of the access which is currently only given lip service. In working with the mining and environmental communities on specific cases, some of the problems which currently exist in the plan could be resolved. From a claim owner's point of view, specific actions are more palatable than "reasonable guarantees".

4. Viewsheds. The concept of viewsheds is one which is becoming more popular in the planning field. However, we can find no statutory authority in the Wild and Scenic Rivers Act, or in the Guidelines for Evaluating Wild, Scenic, and Recreational River Areas Proposed for Inclusion in the National Wild and Scenic Rivers System Under Section 2, PL 90-542, dated September 7, 1982 for the creation of viewsheds in the Draft River Plan. ANILCA specifically restricts the wild and scenic river corridors to "not more than" 640 acres per mile. The four to eight mile boundary as discussed in the plan certainly exceeds this statutory limit. The provision for viewsheds should be eliminated in the draft river plan. Any viewshed for the river corridor beyond the 640 acre limitation which contains federal lands should be contained in the management plan for the Steese National Conservation Area.

5. Water Quality. The issue which is most frustrating to each side of the management issue is turbidity. The miners see it as an unattainable standard which costs them hours, dollars, and perhaps at some point, their mines. The recreationists perceive turbidity as evidence that miners do not care about the environment and as an esthetic negative. The challenge will be to develop new technology which will enable the miner to continue his livelihood while the recreationists enjoy the river. It is no secret that this problem may be the most difficult to solve.

At this time, the technology which would stop turbidity is either non-existent or cost prohibitive. The Commission recommends that efforts be made by federal agencies and State agencies to coordinate efforts to develop the necessary technology. It is necessary that the Plan clearly recognizes the lack of technology, the soil conditions and the efforts of the mining community to control this problem.

SPECIFIC COMMENTS

INTRODUCTION

Descriptions contained in Part I need to be re-written to include more complete information on soils, geologic, and historic data. The information must be verified for accuracy. Several errors already exist. The section must be written in a less negative fashion. State management responsibilities must be recognized.

The section on geological and mineral resources contains only two paragraphs on the resources of the river corridor. The first paragraph deals only superficially with the mineral resources while the second paragraph is primarily a commentary on the adverse effects of placer mining on the river. This is out of place in a section which is supposed to deal with resource description. Editorial comments should be omitted or reserved for more appropriate sections. Please note, too, that Harrison Creek is not in the headwaters of Birch Creek. It enters the river at River Mile 59.

Page 10 has a statement which says the effect of turbid water on biological resources is not precisely known, but is generally believed to be having an adverse impact. Page 21 has a statement that "degraded water quality caused by vehicle use and mining operations impairs the biological productivity of the river environment, harming the fishery and other aquatic wildlife." If turbidity and water quality are conclusively demonstrated to adversely affect biological resources on the river, this should be consistently stated. If, on the other hand, there is no conclusive proof available to indicate that they do adversely affect biological resources, this fact should be consistently stated.

Management Considerations

Item 4--Water Quality. This section contains conflicting statements. The section on minerals management states that most placer mining operations affecting the river corridor are properly located and are operating in compliance with State and federal regulations for resource protection. The section on water quality makes the statement that many placer mining operations within the watershed make little or no effort to limit effluent discharge in the tributaries of Birch Creek. Meetings with miners operating in the area indicate that most are making every effort to comply with existing water quality standards. Again, these conflicting statements should be reconciled.

The statement that implementation of water quality standards may increase costs or time to develop mining claims should be changed to state that costs will definitely increase.

Item 5--Water Rights. Water rights are not an issue. The State retains jurisdiction over water rights. This section appears to be put in just so there could be a place to say later that reservation of current water levels would be sought for the river.

Item 7--Visitor Management. What are "on-site management controls"?

Item 9--Biotic Resources. Care must be taken to identify the differences between managing endangered species which have been identified and those which are only "believed" to exist.

Management Actions

This section will require considerable revision before these management practices can be implemented. While the separate issues are outlined in each management action, there is little or no discussion or description on how they will be implemented. Reference to the statutory authorities for management are helpful, but a detailed description of the guidelines contained within the statutes is necessary in the river plan.

As a general comment, each management action should include the statement that it applies to the river corridor and not to surrounding or adjacent private, State or native lands. Many of the management actions are also stated in a very negative manner. By a simple rewording, negative reactions to them would be lessened or eliminated.

Action for Issue 1-Surface Transportation.

This management action must contain provisions which will accommodate guaranteed rights of access.

Action 1.3. Restrictions for vehicular movement should be contained in individual mining plans of operation.

Action for Issue 3-Minerals Management.

No management action affecting mineral development within the river corridor should extend beyond the boundaries of the corridor. Plans of operation for mining claims within the river corridor must not contain restrictions which are unreasonable or which will make operation of those claims economically unfeasible. Care must be taken that recreational gold-panning not take place on private lands or on valid claims.

Action for Issue 6-Facility Management.

Action 6.3: Change "may" to "shall".

Action for Issue 8-Non-Federal Land.

There is no need to acquire additional lands or interests in lands for any reason, since there are no private, native or State owned lands located within the corridor. Actions 8.1 and 8.2 should be eliminated. The Commission does not support acquisition of any lands, particularly through condemnation proceedings.

Action for Issue 9-Biotic Resources.

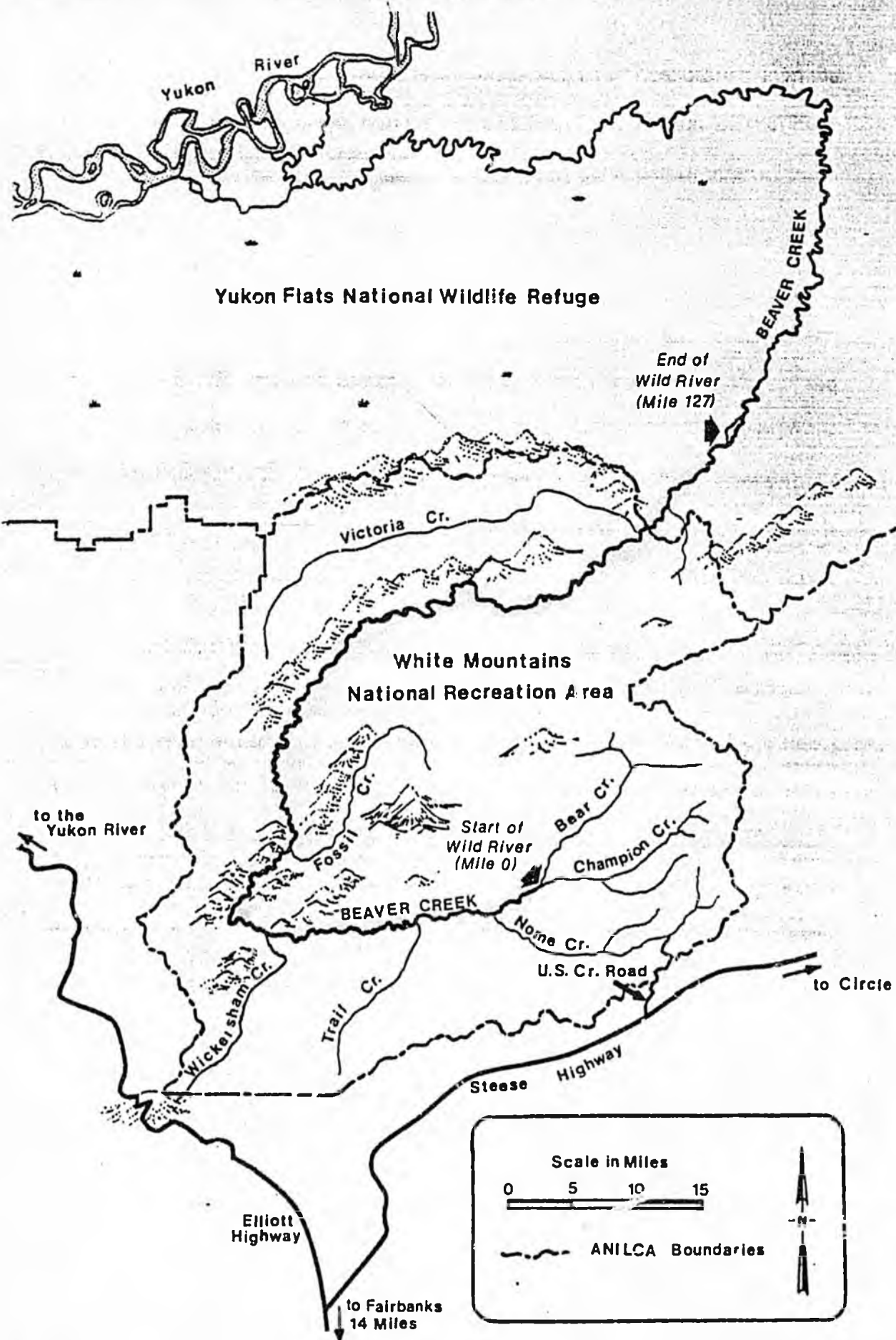
This section should not be limited to biotic resources within the river corridor. An inventory should be prepared for all natural resources within the corridor.

Action for Issue 11-Subsistence.

It has already been stated that there is no subsistence activity occurring within the corridor. There is no need to establish a management action.

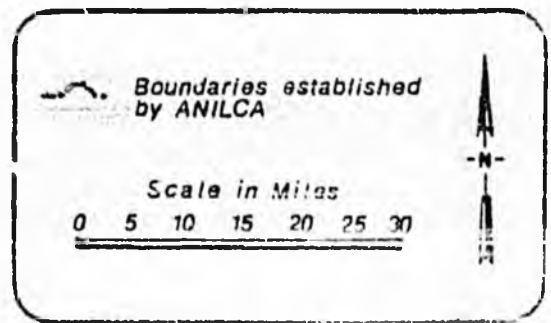
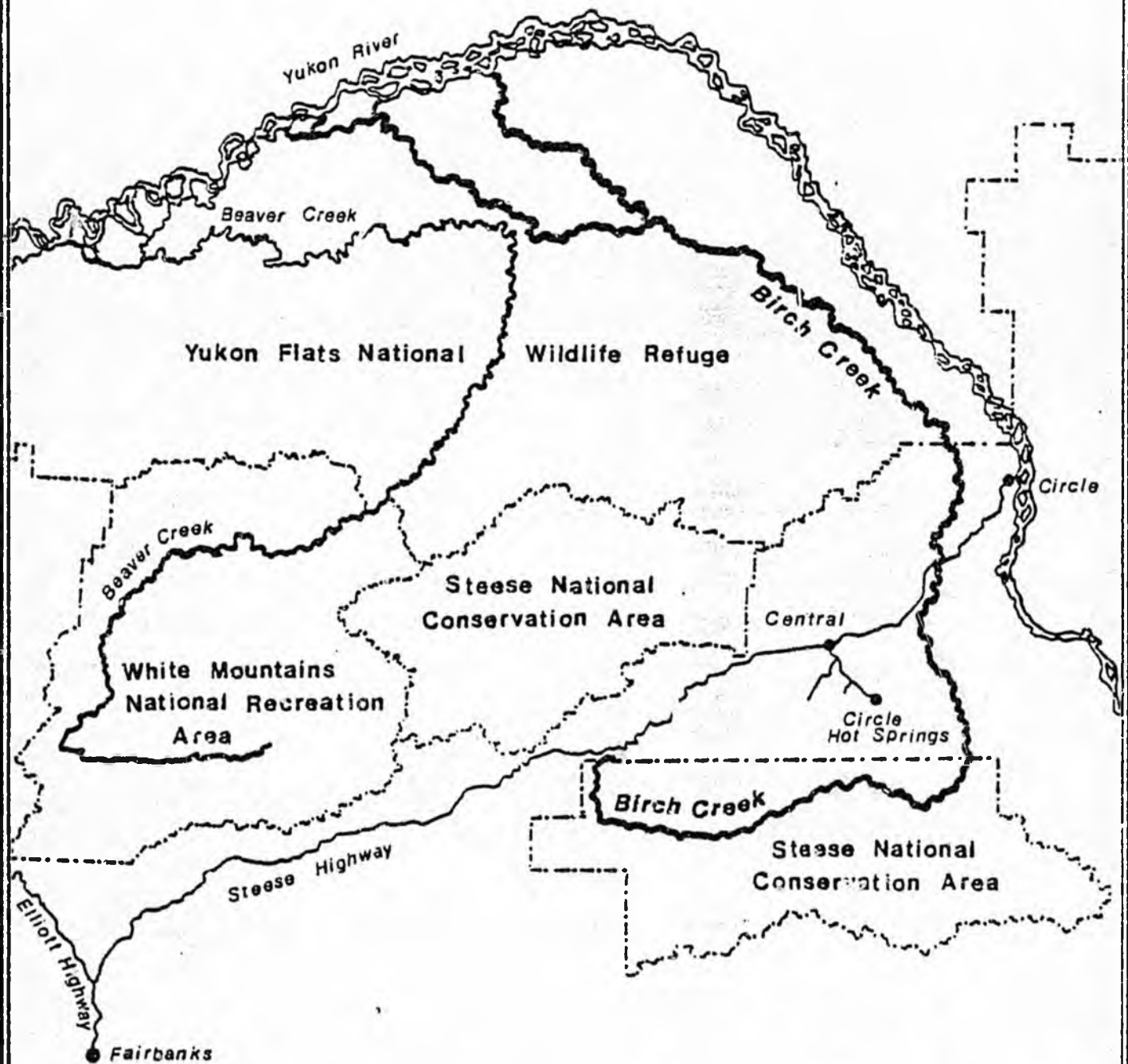
Beaver Creek National Wild River

Area Map



Birch Creek National Wild River

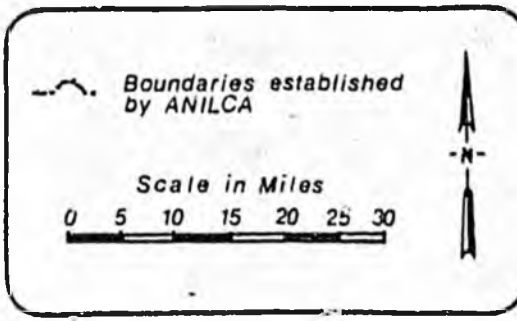
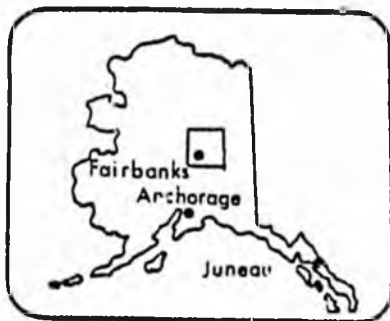
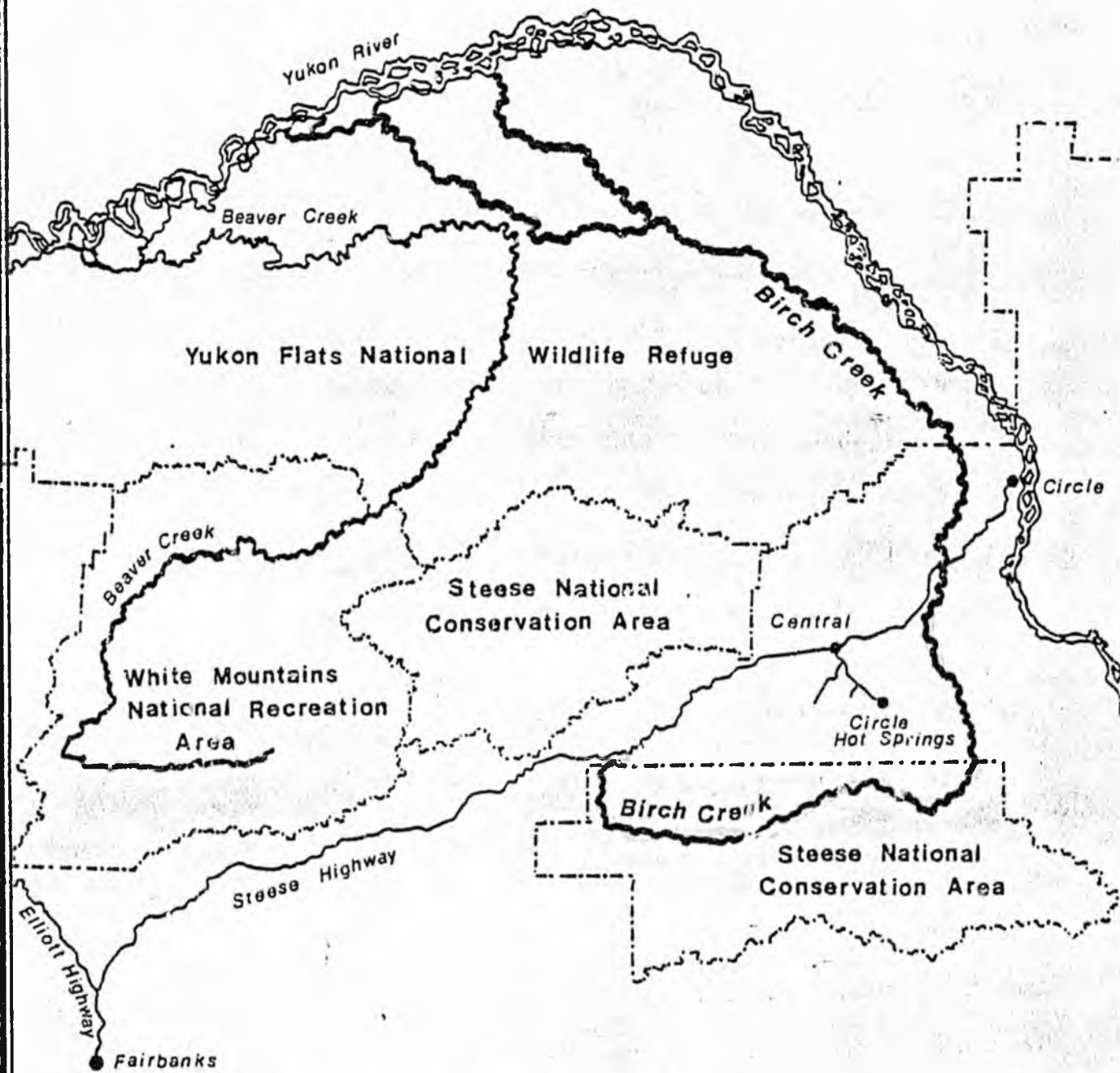
Regional Map



Birch Creek National Wild River

Regional Map

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Beaver Creek National Wild River

Area Map

