

SCOMM

83:20

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: SJR 44
BILL (S) Publish Date: 3-13-92

Revision Date: 9-Mar-92 Department Affected: Natural Resources
 Title: Support Kantishna Area BRU: Land Management
Tourism Development Components: Land Management
 Sponsor: Senator Craft
 Requestor: Senate International Trade & Tourism COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
Funding Source:	N/A					

FUNDING: (Thousands of Dollars)

GENERAL FUND	**					
FEDERAL FUNDS						
OTHER						
Funding Source:						
TOTAL	**	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0		
PART-TIME	0.0		
TEMPORARY	0.0		

Changes in CS SJR 44 (ITT) have no fiscal impact. This fiscal note is appropriate.
3-11-92 date J. Smith Comte Aide (initial)

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)
 ** The costs for DNR associated with developing new access to Kantishna depend on the methods used to obtain access routes. Possibilities include an RS 2477 assertion; a right-of-way under Title 11 of ANILCA; land trades or purchases; some combination of methods.

Prepared by: Ron Swanson Phone: 762-2692
 Division: Land Management Date: 9-Mar-92
 Approved by Commissioner: Harold C. Heinz Date: 9-Mar-92
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 2

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: SJR 44
(S) Publish Date: 3-13-92

Revision Date: _____

Department Affected: Office of the Governor

Title: "Supporting increased access...area at Kantishna"

BRU: Executive Operations

Sponsor: Senators Craft, Shultz, Halford, etc.

Component: Executive Office

Requestor: _____

COMPONENT SERIAL NO.

0	0	0	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	n/a	n/a	n/a	n/a	n/a	n/a
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: none

Changes in CS SJR 44 (ITT) have no fiscal impact. This fiscal note is appropriate.

ANALYSIS: (Attach a separate page if necessary.)
No fiscal impact

3-11-92 date J Smith Comte Aide(initial)

Prepared by: Michael A. Nizich, Director
Division: Division of Administrative Services

Phone: 465-3616
Date: 2/28/92

Approved by Commissioner: D. Max Hodel, Chief of Staff
Agency: Office of the Governor

2/28/92
Date: 2/28/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NUMBER: SJR 44

FISCAL NOTE

Revision Date:
Title: Support Kantishna Area Tourism
Development

Department Affected: DOT&PF
BRU: Northern Region D&C

Sponsor: Senator Craft
Requestor: Senator Craft

Component: CIP Program
Component Serial Number: 583

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Katy McHugh, Special Assistant

Phone: 465-3900

Division: Office of the Commissioner

Date: March 9, 1992

Approved by Commissioner: 

Phone: 465-3900

Frank G. Turpin

Agency: Department of Transportation and Public Facilities

Date: March 9, 1992

Distribution By Preparer: Leg. Finance, Leg. Sponsor, Requestor, OMB/DBR, Gov. Leg. Office, Impacted Agency(ies).

NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SJR 44

Revision Date: _____

Department Affected: Office of the Governor

Title: "Supporting increased access...area at Kantishna"

BRU: Executive Operations

Sponsor: Senators Craft, Shultz, Halford, etc.

Component: Executive Office

Requestor: _____

COMPONENT SERIAL NO.

0	0	0	6
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	n/a	n/a	n/a	n/a	n/a	n/a
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)
No fiscal impact

Prepared by: Michael A. Nizich, Director
Division: Division of Administrative Services

Phone: 465-3616
Date: 2/28/92

Approved by Commissioner: D. Max Hodel, Chief of Staff
Agency: Office of the Governor

Date: 2/28/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

ALASKA STATE LEGISLATURE


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(907) 452-4882
Fax: 452-3254



Room 125, State Capitol
Juneau, Alaska 99801-1182
(907) 465-3834
Fax: 586-6246

Shirley Craft
Alaska State Senator

To: Representative Tom Moyer, Chair
International Trade & Tourism Committee

From: Senator Shirley Craft 

Date: March 26, 1992

Re: CS Senate Joint Resolution 44; Supporting increased access near Mt. McKinley through establishment of a visitor activity area at Kantishna.

I would appreciate your prompt scheduling of SJR 44 by the House Special Committee on International Trade and Tourism.

There has been continued debate in the legislature over access into the Kantishna area for years. These discussions have continuously revolved around the use of state funds to build a road into the area. Unfortunately, in these days of declining revenues, the state is caught in a "Catch 22" situation. On the one hand, the public sector can no longer afford the costs associated with the construction and maintenance of a transportation system into Kantishna. On the other hand, with the state's growing reliance on the tourism industry, I pose the question: can we afford not to provide access? The solution to these questions, as I see it, comes from the state. Not in the building of structures, but in facilitating efforts by the private sector in attaining the necessary right of way lands from the federal government. Inherent in this action is that the state, with its own plans, do not preclude any transportation systems that might be preferable to the private sector.

The resolution, SJR 44, before the International Trade and Tourism Committee would ask that the Governor to use the resources he has at his disposal to address two questions:

- 1) That the administration aggressively pursue development of access into Kantishna and a Kantishna Historical Visitor Activity Area;
- 2) That the appropriate state agencies work with the private sector in investigating the construction and operation of a transportation system into Kantishna.

The resolution also asks the Governor, as well as members of the Congressional Delegation and the President, to take the necessary actions in resolving any questions regarding permits and land acquisition.

The prompt consideration by your committee on this bill would be greatly appreciated. If you have any questions please contact Tom Brice of my staff at x3834.



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SJR 44

APPROVED: *D. Randy Sumner for FT*

TITLE: Visitor Area at Kantishna

DATE: February 20, 1992

The department supports this resolution. System enhancement focused on economic development is one of three major initiatives in the department's new State Transportation Plan. The department has proposed seven projects for activity within the next six years of the federal highways act, and a surface transportation route from the Parks Highway to Kantishna is one of these projects. Accordingly, the proposed visitor activity area at Kantishna is consistent with the direction the department is taking in this area.

USIBELLI COAL MINE, INC.

MARKETING
122 First Avenue
Suite 302
Fairbanks, Alaska 99701
(907) 452-2625
FAX 451-6543

March 6, 1992

Senator Shirley Craft
Senate
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Craft:

Usibelli Coal Mine, Inc. urges the Senate to adopt Senate Joint Resolution No. 44 which supports increased access near Mt. McKinley through establishment of a visitor activity area at Kantishna.

Improved and alternate access into Kantishna is greatly needed and especially to provide for high quality experiences on the part of tourists who flock to Alaska's prime visitor attraction.

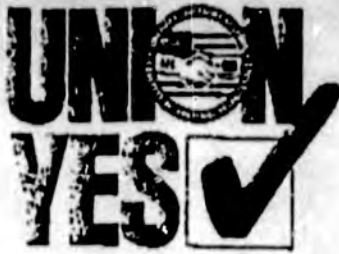
Sincerely,



John Sims

Vice President Marketing

JS/me



FAIRBANKS CENTRAL LABOR COUNCIL

AFL-CIO

315 Barnette Street
Fairbanks, Alaska 99701-4568
(907) 456-4584

JOE THOMAS
President
MIKE ANDREWS
Secretary-Treasurer

March 19, 1992

Senator Shirley Craft
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Craft:

The Fairbanks Central Labor Council encourages your support of SJR 44 regarding increased access near Mt. McKinley/Denali through establishment of a visitor activity area at Kantishna. We support this resolution following discussion with Kantishna Group Incorporated. We understand that the proposed electric railroad will increase access while minimizing environmental impact.

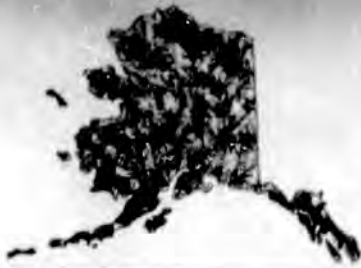
The Kantishna Group Incorporated has also committed to union labor in construction and maintenance of the railroad. The project will bring badly needed jobs to the Interior while developing our vital tourism industry.

With the developers commitment to union labor, we encourage your support for SJR44.

Sincerely,

Richard Seward
President

Jack Jakubiec
Secretary/Treasurer



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

SJR 44: KANTISHNA TOURISM DEVELOPMENT

SJR 44 advocates aggressive pursuit of a new access route to Kantishna and development of a Kantishna historical visitor activity area.

The subject of an additional road to Kantishna is not a new one. The administration has repeatedly shown interest in a new road to Kantishna, despite its own construction cost estimate of \$80 to \$100 million, with annual maintenance costs of approximately \$720,000. There are only about 6000 private acres of land in the Kantishna area, surrounded by Denali National Park & Preserve.

To look into the lingering questions of the adequacy of access to inholdings at Kantishna, the National Park Service formed the Denali Access Task Force. The Task Force, which published its findings in November of 1991, found no need for an additional road into the Kantishna area. A road was not economically justifiable nor needed for visitor services. It also could have a detrimental effect on park purposes and wildlife.

However, the Task Force did find that further study of alternative modes of transportation was justified, such as a railroad or monorail. Although further study may be warranted, at this point the expense of these alternatives seems prohibitive. Thomas Engineering estimated a railway would cost \$189 million, not including rail cars. A monorail system would be much more expensive, with urban monorail systems ranging from \$10 million to \$40 million a mile.

Kantishna is not the only historical mining area in the state, but it is in the middle of an area that people come to visit for its unique wildlife viewing and vast remoteness. There are other mining areas in the state that now provide recreational opportunities, all with current easy access. With Denali National Park already the state's number one tourist attraction, it makes sense to spread the wealth around. Surely state dollars could be better spent on developing a broader base of tourism opportunities, rather than focusing on a \$80 to \$189 million access route to only 6000 acres of private land.

The Alaska Environmental Lobby opposes SJR 44. This resolution would lead to unsound land use practices and fiscal irresponsibility.

Issue paper prepared by Linda Franklin, AEL volunteer
April 20, 1992

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL
DENALI GROUP, SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU, GROUP, SIERRA CLUB
KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANNERS AND KAYAKERS
KNIK GROUP, SIERRA CLUB • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE • SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL





IN REPLY REFER TO:

United States Department of the Interior

Tom



NATIONAL PARK SERVICE
Alaska Regional Office
2525 Gambell Street, Room 107
Anchorage, Alaska 99503-2892

APR 7 1992

Representative Tom Moyer
P.O. Box V
Juneau, Alaska 99811

Dear Representative Moyer:

Enclosed is the information you requested on NPS concessions policy.

On page three I marked the statement of policy that I believe you are looking for, but I sent you the whole chapter.

Good wishes.

Sincerely,

Janet

Janet McCabe
Special Assistant

Enclosure

AUTHORITY FOR CONCESSION AUTHORIZATIONS

A. LAW

1. Act of August 25, 1916 (As amended by P.L. 85-434)
39 Stat. 535, 16 U.S.C. 3

§ 3. Rules and regulations of national parks, reservations, and monuments; timber; leases

The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service, and any violation of any of the rules and regulations authorized by this section and sections 1, 2, and 4 of this title shall be punished by a fine of not more than \$500 or imprisonment for not exceeding six months or both, and be adjudged to pay all costs of the proceedings. He may also, upon terms and conditions to be fixed by him, sell or dispose of timber in those cases where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park, monument, or reservation. He may also provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks, monuments, or reservations. He may also grant privileges, leases, and permits for the use of land for the accommodation of visitors in the various parks, monuments, or other reservations herein provided for, but for periods not exceeding thirty years; and no natural curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public: *Provided, however,* That the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze livestock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created, except that this provision shall not apply to the Yellowstone National Park: *And provided further,* That the Secretary of the Interior may grant

said privileges, leases, and permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids: *And provided further,* That no contract, lease, permit, or privilege granted shall be assigned or transferred by such grantees, permittees, or licensees without the approval of the Secretary of the Interior first obtained in writing: *And provided further,* That the Secretary may, in his discretion, authorize such grantees, permittees, or licensees to execute mortgages and issue bonds, shares of stock, and other evidences of interest in or indebtedness upon their rights, properties, and franchises, for the purposes of installing, enlarging, or improving plant and equipment and extending facilities for the accommodation of the public within such national parks and monuments.

(Aug. 25, 1916, ch 408, § 3, 39 Stat. 535; June 2, 1920, ch. 218, § 5, 41 Stat. 732; Mar. 7, 1928, ch. 137, § 1, 45 Stat. 235; May 29, 1958, Pub. L. 85-434, 72 Stat. 152.)

2. Act of June 30, 1932
47 Stat. 412, 40 U.S.C. 303(b)

§ 303b. Lease of buildings by Government; money consideration

On and after June 30, 1932, except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of the same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts.

(June 30, 1932, ch. 314, § 321, 47 Stat. 412.)

3. Act of August 8, 1953
67 Stat. 495, 16 U.S.C. 1(b)(4)

(4) Utility services for concessioners; reimbursement

Furnishing, on a reimbursement of appropriation basis, all types of utility services to concessioners, contractors, permittees, or other users of such services, within the National Park System: *Provided*, That reimbursements for cost of such utility services may be credited to the appropriation current at the time reimbursements are received.

4. P.L. 87-608 (August 24, 1962)
76 Stat. 405, 40 U.S.C. 303(c)

§ 303c. Maintenance and repair of Government improvements under concession contracts

Privileges, leases, and permits granted by the Secretary of the Interior for the use of land for the accommodation of park visitors, pursuant to section 3 of title 16, may provide for the maintenance and repair of Government improvements by the grantee notwithstanding the provisions of section 303b of this title, or any other provision of law.

(Pub. L. 87-608, Aug. 24, 1962, 76 Stat. 405.)

Priority For Concession Authorizations

5. P.L. 89-249 (October 9, 1965)
79 STAT. 969, 16 U.S.C. 20

Relating to the establishment of concession policies in the areas administered by National Park Service and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1), which directs the Secretary of the Interior to administer national park system areas in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas.

National Park
Service.
Concession
policies.

Sec. 2. Subject to the findings and policy stated in section 1 of this Act, the Secretary of the Interior shall take such action as may be appropriate to encourage and enable private persons and corporations (hereinafter referred to as "concessioners") to provide and operate facilities and services which he deems desirable for the accommodation of visitors in areas administered by the National Park Service.

"Concessioners."

Sec. 3. (a) Without limitation of the foregoing, the Secretary may include in contracts for the providing of facilities and services such terms and conditions as, in his judgment, are required to assure the concessioner of adequate protection against loss of investment in structures, fixtures, improvements, equipment, supplies, and other tangible property provided by him for the purposes of the contract (but not against loss of anticipated profits) resulting from discretionary acts, policies, or decisions of the Secretary occurring after the contract has become effective under which acts, policies, or decisions the concessioner's authority to conduct some or all of his authorized operations under the contract ceases or his structures, fixtures, and improvements, or any of them, are required to be transferred to another party or to be abandoned, removed, or demolished. Such terms and conditions may include an obligation of the United States to compensate the concessioner for loss of investment, as aforesaid.

Contracts.

(b) The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

Profits.

(c) The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the contract, be judged primarily by comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

Rates.

79 STAT. 969
79 STAT. 970

(d) Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges

Franchise
fees.

Pub. Law 89-249 - 2 - October 9, 1965

granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every five years unless the contract is for a lesser period of time.

Contracts, extension, renewals, etc.

SEC. 4. The Secretary may authorize the operation of all accommodations, facilities, and services for visitors, or of all such accommodations, facilities, and services of generally similar character, in each area, or portion thereof, administered by the National Park Service by one responsible concessioner and may grant to such concessioner a preferential right to provide such new or additional accommodations, facilities, or services as the Secretary may consider necessary or desirable for the accommodation and convenience of the public. The Secretary may, in his discretion, grant extensions, renewals, or new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits.

SEC. 5. The Secretary shall encourage continuity of operation and facilities and services by giving preference in the renewal of contracts or permits and in the negotiation of new contracts or permits to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary. To this end, the Secretary, at any time in his discretion, may extend or renew a contract or permit, or may grant a new contract or permit to the same concessioner upon the termination or surrender before expiration of a prior contract or permit. Before doing so, however, and before granting extensions, renewals or new contracts pursuant to the last sentence of section 4 of this Act, the Secretary shall give reasonable public notice of his intention so to do and shall consider and evaluate all proposals received as a result thereof.

Possessory interest.

SEC. 6. A concessioner who has heretofore acquired or constructed or who hereafter acquires or constructs, pursuant to a contract and with the approval of the Secretary, any structure, fixture, or improvement upon land owned by the United States within an area administered by the National Park Service shall have a possessory interest therein, which shall consist of all incidents of ownership except legal title, and except as hereinafter provided, which title shall be vested in the United States. Such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of any structure, fixture, or improvement in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the contract and of laws and regulations relating to the area. The said possessory interest shall not be extinguished by the expiration or other termination of the contract and may not be taken for public use without just compensation. The said possessory interest may be assigned, transferred, encumbered, or relinquished. Unless otherwise provided by agreement of the parties, just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. The provisions of this section shall not apply to concessioners whose current contracts do not include recognition of a possessory interest, unless in a particular case the

79 STAT. 970
79 STAT. 971

Denale "state"
McKinley
Federal

October 9, 1965

- 3 -

Pub. Law 89-249
79 STAT. 971

Secretary determines that equitable considerations warrant recognition of such interest.

SEC. 7. The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303(b)), relating to the leasing of buildings and properties of the United States, shall not apply to privileges, leases, permits, and contracts granted by the Secretary of the Interior for the use of lands and improvements thereon, in areas administered by the National Park Service, for the purpose of providing accommodations, facilities, and services for visitors thereto, pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended, or the Act of August 21, 1935, chapter 593 (49 Stat. 666; 16 U.S.C. 461-467), as amended. 16 USC 1.

SEC. 8. Subsection (h) of section 2 of the Act of August 21, 1935, the Historical Sites, Buildings, and Antiquities Act (49 Stat. 666; 16 U.S.C. 462(h)), is amended by changing the proviso therein to read as follows: "Provided, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids."

SEC. 9. Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof. Records.

The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five (5) calendar years after the close of the business year of each concessioner or subconcessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the negotiated contract or contracts involved. Availability.

Approved October 9, 1965, 6:35 a. m.

6. P.L. 94-458 (As amended by P.L. 95-625) (a) and (b) omitted) October 7, 1976
90 Stat. 1939, 16 U.S.C. 1a-1
92 Stat. 3518, 3519, 16 U.S.C. 1a-7

Concession leases and contracts; proposed awards; transmittal to Congressional committees

(e) The Secretary of the Interior shall hereafter transmit to the Committee on Interior and Insular Affairs all proposed awards of concession leases and contracts involving a gross annual business of \$100,000 or more, or of five years or more in duration (including renewals thereof), and all proposed rules and regulations relating thereto, sixty days before such awards are made or such rules and regulations are promulgated.

Pub.L. 91-383, § 12, as added Pub.L. 94-458, § 2, Oct. 7, 1976, 90 Stat. 1942, and amended Pub.L. 95-625, Title VI, § 604(3), (4), Nov. 10, 1978, 92 Stat. 3518, 3519.

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appropriate for public use and enjoyment of the park areas in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the park areas.

§ 51.3 Definitions.

The following definitions shall apply to this Part 51:

(a) "Concession Contracts" and "Concession Permits" (or "contracts" and "permits") are agreements between the Director and a concessioner whereby the concessioner agrees to provide certain public accommodations, facilities or services within a park area under the administration of the Director. Concession Permits are generally utilized where the authorized concession operations are not expected to gross more than \$100,000 annually, where the term of the permit is less than five (5) years, where no possessory interest is to be granted to the concessioner, and where no preferential rights to additional services are authorized. In other instances, Concession Contracts are utilized.

(b) "Right of Preference" refers to the right of existing satisfactory concessioners to a preference in the renewal or negotiation of a new contract or permit covering substantially the same accommodations, facilities and services as provided by the concessioner under the terms of its existing contract or permit. Prior to the expiration or termination of a contract or permit a determination shall be made based on annual evaluations, as to whether or not the concessioner is entitled to a preference in the renewal of its contract or permit. An unsatisfactory rating, results in the loss of the right of preference.

(c) "Preferential Right" refers to the right to provide new or additional services and facilities which may be granted to a concessioner by Concession Contract as the Director may consider necessary for the accommodation and convenience of the public.

(d) The term "Director" refers to the Director of the National Park Service or his authorized representatives.

(e) The term "Secretary" refers to the Secretary of the Interior or his authorized representatives.

§ 51.4 Solicitation and award of concession contracts and permits where no right of preference exists.

(a) Where no right of preference exists, the Director shall issue a prospectus soliciting proposals describing the concession operation to be authorized, the material terms and conditions of the proposed Concession Contract or Permit, and the principal factors considered in selection. Public notice of the availability of the concession opportunity shall be published in the FEDERAL REGISTER and/or at least once in local or national newspapers or trade magazines, as appropriate, and will be distributed to interested parties and organizations. The prospectus will be made available upon request to all interested parties and will allow a minimum of sixty days for proposals to be submitted unless a written determination is made that a shorter period is necessary because of exceptional circumstances. All proposals received shall be evaluated by the Director, and the proposal considered best by the Director on an overall basis shall be selected as the basis for negotiation of the Concession Contract or Permit.

(b) The principal factors to be considered in selection of the best proposal shall be (1) the experience and related background of offerors, (2) the offeror's financial capability, and (3) conformance to the terms and conditions of the prospectus in relation to quality of service to the visitor. Secondary factors shall include franchise fee offered and other factors as may be specified.

(c) The Director may solicit from any applicant additional information, or written or verbal clarification of a proposal, and may extend the solicitation period in his discretion. The Director may choose to reject all proposals received at any time and resolicit or cancel the solicitation altogether in his discretion when in the best interest of the Government. Any material information made available to any applicant by the Director must be made

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available to all applicants, and will be available to the public upon request.

(d) Negotiation of a final contract and permit with the selected applicant shall commence promptly. Material amendments to the proposed terms and conditions of the Concession Contract or Permit, as described in the prospectus, may be negotiated only after resolicitation of the concession opportunity for an appropriate period of time by amendment to the prospectus and readvertising. After negotiation of Concession Contracts with anticipated gross receipts in excess of \$100,000 or five (5) years or more in duration, such contracts shall be forwarded to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs for a 60-day waiting period prior to award. The Director may, in his discretion, terminate negotiation of a Concession Contract or Permit at any time prior to execution by the Government and resolicit or cancel the solicitation when in the best interest of the Government.

(e) The terms and conditions of the solicitation must represent the requirements of the National Park Service and not be developed to accommodate the capabilities or limitations of any particular party.

(f) Upon a written determination that exceptional circumstances warrant waiver of the procedures described in this subsection and that it is in the public interest to protect visitor or park resources or otherwise, the Director may negotiate a Concession Contract or Permit with any qualified party without public notice or advertising.

§ 51.5 Solicitation and award of concession contracts and permits or extensions or renewal of concession contracts and permits, where a right of preference exists.

The procedures described in § 51.4 shall apply to the solicitation, negotiation and award of extensions, renewals, or replacement of contracts or permits by a new contract or permit where an existing concessioner has a right of preference except as follows:

(a) A fact sheet rather than a prospectus will be developed by the Direc-

tor and will describe the existing concessioner's right of preference as well as the material terms and conditions under which the National Park Service proposes to negotiate a new concession contract or permit with the existing satisfactory concessioner.

(b) The concessioner with the right of preference shall be required to submit a proposal in response to the fact sheet. If, after evaluation of all proposals received, a proposal other than that of the existing concessioner is determined to be the best proposal, the existing concessioner shall be given an opportunity to meet the terms and conditions of the best proposal. If the existing concessioner does so and its proposal, as amended, is in the judgment of the Director, at least substantially equal to the best proposal, the existing concessioner shall be selected for negotiation of the contract or permit. If not, the contract or permit will be negotiated with the party that submitted the best proposal.

(c) The requirement for public notice and evaluation of proposals received may not be waived.

§ 51.6 Preferential right for additional services where a right to additional services and facilities exists by specific contract provisions.

Where the Director seeks to authorize new or additional accommodations, facilities and services of generally the same character as provided by an existing satisfactory concessioner in a park area, and such concessioner by Concession Contract has a right to provide such additional services, the Director shall develop a description of the new or additional services and the terms and conditions upon which they are to be provided without reference to any private party and give the existing concessioner a reasonable opportunity to review such description to determine if it wishes to provide the services. If so, the Director shall authorize the additional services by amendment to the concessioner's contract. If the existing concessioner does not agree to provide the additional services upon the terms and conditions described, the Director shall authorize

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additional services to be provided by a new concessioner under substantially the same terms and conditions and pursuant to the procedures of § 51.4 hereof.

§ 51.7 Sale, assignment, or encumbrance of concession contracts, permits, and assets.

(a) Concession Contracts and Permits or operations authorized thereby or controlling interests therein may not be transferred, sold, or assigned, or assets thereof encumbered in any manner, including stock purchases, mergers, consolidations or reorganizations, except with the written approval of the Director. Transfers, sales, assignments, or encumbrances consummated in violation of this requirement shall be considered null and void by the Director and a material breach of the contract or permit.

(b) The term "controlling interest," as used herein means, in the case of corporate concessioners, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the concessioner so as to permit exercise of managerial authority over the actions and operations of the concessioner or election of a majority of the Board of Directors of the concessioner, and, in the instance of a partnership, limited partnership, joint venture or individual entrepreneurship, beneficial ownership of the capital assets of the concessioner so as to permit exercise of managerial authority over the actions and operations of the concessioner.

(c) Prior to consummating any transfer, sale, assignment or encumbrance of a controlling interest, the concessioner will request approval of the Director in writing and provide the following information:

(1) All instruments proposed to implement the transaction;

(2) An opinion of counsel from the buyer to the effect that the proposed transaction is lawful under all applicable Federal and State laws;

(3) A narrative description of the proposed transaction and the operational plans for conducting the operation;

(4) Statement as to the existence of any litigation questioning the validity of the proposed transaction;

(5) Description of the management qualifications and financial background of the proposed transferee; and

(6) A statement as to whether the proposed sale constitutes a controlling interest and the particulars thereof as described in paragraph (b) of this section; and

(7) Such other information as the Director may require.

(d) Prior to the sale, transfer, assignment or encumbrance of anything other than a controlling interest, the concessioner must have notified the Director in writing and must have received acknowledgement from the Director. Information as to why it is not a controlling interest and identification of the transferee must be submitted with the required notification. Failure to comply with this provision shall make the subject sale or transfer null and void and constitute a material breach of the Contract or Permit.

(e) The Director may choose not to approve a proposed sale, transfer, assignment or encumbrance in his discretion or may place appropriate conditions on any approval as are necessary to protect the public interest. Concession Contracts and certain Concession Permits contain provisions which limit the purposes for which they may be encumbered. Such limitations are incorporated by reference herein as an element of the Director's review of such transactions.

AUTHORITY FOR CONCESSION AUTHORIZATIONS

A. LAW

1. Act of August 25, 1916 (As amended by P.L. 85-434)
39 Stat. 535, 16 U.S.C. 3

§ 3. Rules and regulations of national parks, reservations, and monuments; timber; leases

The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service, and any violation of any of the rules and regulations authorized by this section and sections 1, 2, and 4 of this title shall be punished by a fine of not more than \$500 or imprisonment for not exceeding six months or both, and be adjudged to pay all costs of the proceedings. He may also, upon terms and conditions to be fixed by him, sell or dispose of timber in those cases where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park, monument, or reservation. He may also provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks, monuments, or reservations. He may also grant privileges, leases, and permits for the use of land for the accommodation of visitors in the various parks, monuments, or other reservations herein provided for, but for periods not exceeding thirty years; and no natural curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public: *Provided, however*, That the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze livestock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created, except that this provision shall not apply to the Yellowstone National Park: *And provided further*, That the Secretary of the Interior may grant

said privileges, leases, and permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids: *And provided further*, That no contract, lease, permit, or privilege granted shall be assigned or transferred by such grantees, permittees, or licensees without the approval of the Secretary of the Interior first obtained in writing: *And provided further*, That the Secretary may, in his discretion, authorize such grantees, permittees, or licensees to execute mortgages and issue bonds, shares of stock, and other evidences of interest in or indebtedness upon their rights, properties, and franchises, for the purposes of installing, enlarging, or improving plant and equipment and extending facilities for the accommodation of the public within such national parks and monuments.

(Aug. 25, 1916, ch. 408, § 3, 39 Stat. 535; June 2, 1920, ch. 218, § 5, 41 Stat. 732; Mar. 7, 1928, ch. 137, § 1, 45 Stat. 235; May 29, 1958, Pub. L. 85-434, 72 Stat. 152.)

2. Act of June 30, 1932
47 Stat. 412, 40 U.S.C. 303(b)

§ 303b. Lease of buildings by Government; money consideration

On and after June 30, 1932, except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of the same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts.

(June 30, 1932, ch. 314, § 321, 47 Stat. 412.)

3. Act of August 8, 1953
67 Stat. 495, 16 U.S.C. 1(b)(4)

(4) Utility services for concessioners; reimbursement

Furnishing, on a reimbursement of appropriation basis, all types of utility services to concessioners, contractors, permittees, or other users of such services, within the National Park System: *Provided*, That reimbursements for cost of such utility services may be credited to the appropriation current at the time reimbursements are received.

4. P.L. 87-608 (August 24, 1962)
76 Stat. 405, 40 U.S.C. 303(c)

§ 303c. Maintenance and repair of Government improvements under concession contracts

Privileges, leases, and permits granted by the Secretary of the Interior for the use of land for the accommodation of park visitors, pursuant to section 3 of title 16, may provide for the maintenance and repair of Government improvements by the grantee notwithstanding the provisions of section 303b of this title, or any other provision of law.

(Pub. L. 87-608, Aug. 24, 1962, 76 Stat. 405.)

5. P.L. 89-249 (October 9, 1965)
79 STAT. 969, 16 U.S.C. 20

Relating to the establishment of concession policies in the areas administered by National Park Service and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1), which directs the Secretary of the Interior to administer national park system areas in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas.

National Park
Service.
Concession
policies.

SEC. 2. Subject to the findings and policy stated in section 1 of this Act, the Secretary of the Interior shall take such action as may be appropriate to encourage and enable private persons and corporations (hereinafter referred to as "concessioners") to provide and operate facilities and services which he deems desirable for the accommodation of visitors in areas administered by the National Park Service.

"Concessioners."

SEC. 3. (a) Without limitation of the foregoing, the Secretary may include in contracts for the providing of facilities and services such terms and conditions as, in his judgment, are required to assure the concessioner of adequate protection against loss of investment in structures, fixtures, improvements, equipment, supplies, and other tangible property provided by him for the purposes of the contract (but not against loss of anticipated profits) resulting from discretionary acts, policies, or decisions of the Secretary occurring after the contract has become effective under which acts, policies, or decisions the concessioner's authority to conduct some or all of his authorized operations under the contract ceases or his structures, fixtures, and improvements, or any of them, are required to be transferred to another party or to be abandoned, removed, or demolished. Such terms and conditions may include an obligation of the United States to compensate the concessioner for loss of investment, as aforesaid.

Contracts.

(b) The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

Profits.

(c) The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the contract, be judged primarily by comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

Rates.

79 STAT. 969
79 STAT. 970

(d) Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges

Franchise
fees.

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granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every five years unless the contract is for a lesser period of time.

Contracts, extension, renewals, etc.

SEC. 4. The Secretary may authorize the operation of all accommodations, facilities, and services for visitors, or of all such accommodations, facilities, and services of generally similar character, in each area, or portion thereof, administered by the National Park Service by one responsible concessioner and may grant to such concessioner a preferential right to provide such new or additional accommodations, facilities, or services as the Secretary may consider necessary or desirable for the accommodation and convenience of the public. The Secretary may, in his discretion, grant extensions, renewals, or new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits.

SEC. 5. The Secretary shall encourage continuity of operation and facilities and services by giving preference in the renewal of contracts or permits and in the negotiation of new contracts or permits to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary. To this end, the Secretary, at any time in his discretion, may extend or renew a contract or permit, or may grant a new contract or permit to the same concessioner upon the termination or surrender before expiration of a prior contract or permit. Before doing so, however, and before granting extensions, renewals or new contracts pursuant to the last sentence of section 4 of this Act, the Secretary shall give reasonable public notice of his intention so to do and shall consider and evaluate all proposals received as a result thereof.

Possessory interest.

SEC. 6. A concessioner who has heretofore acquired or constructed or who hereafter acquires or constructs, pursuant to a contract and with the approval of the Secretary, any structure, fixture, or improvement upon land owned by the United States within an area administered by the National Park Service shall have a possessory interest therein, which shall consist of all incidents of ownership except legal title, and except as hereinafter provided, which title shall be vested in the United States. Such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of any structure, fixture, or improvement in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the contract and of laws and regulations relating to the area. The said possessory interest shall not be extinguished by the expiration or other termination of the contract and may not be taken for public use without just compensation. The said possessory interest may be assigned, transferred, encumbered, or relinquished. Unless otherwise provided by agreement of the parties, just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. The provisions of this section shall not apply to concessioners whose current contracts do not include recognition of a possessory interest, unless in a particular case the

79 STAT. 970
79 STAT. 971

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79 STAT. 971

Secretary determines that equitable considerations warrant recognition of such interest.

SEC. 7. The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303(b)), relating to the leasing of buildings and properties of the United States, shall not apply to privileges, leases, permits, and contracts granted by the Secretary of the Interior for the use of lands and improvements thereon, in areas administered by the National Park Service, for the purpose of providing accommodations, facilities, and services for visitors thereto, pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended, or the Act of August 21, 1935, chapter 593 (49 Stat. 666; 16 U.S.C. 461-467), as amended. 16 USC 1.

SEC. 8. Subsection (h) of section 2 of the Act of August 21, 1935, the Historical Sites, Buildings, and Antiquities Act (49 Stat. 666; 16 U.S.C. 462(h)), is amended by changing the proviso therein to read as follows: "Provided, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids."

SEC. 9. Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof. Records.

The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five (5) calendar years after the close of the business year of each concessioner or subconcessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the negotiated contract or contracts involved. Availability.

Approved October 9, 1965, 6:35 a.m.

6. P.L. 94-458 (As amended by P.L. 95-625) (a) and (b) omitted) October 7, 1976
90 Stat. 1939, 16 U.S.C. 1a-1
92 Stat. 3518, 3519, 16 U.S.C. 1a-7

Concession leases and contracts; proposed awards; transmittal to Congressional committees

(c) The Secretary of the Interior shall hereafter transmit to the Committees on Interior and Insular Affairs all proposed awards of concession leases and contracts involving a gross annual business of \$100,000 or more, or of five years or more in duration (including renewals thereof), and all proposed rules and regulations relating thereto, sixty days before such awards are made or such rules and regulations are promulgated.

Pub.L. 91-383, § 12, as added Pub.L. 94-458, § 2, Oct. 7, 1976, 90 Stat. 1942, and amended Pub.L. 95-625, Title VI, § 604(3), (4), Nov. 10, 1978, 92 Stat. 3518, 3519.

7. P.L. 96-514 (December 12, 1980)
94 Stat. 2962, 16 U.S.C. 20b

§ 20b. Protection of concessioner's investment

Termination for Cause Clauses in Concessionaire Contracts. Pub.L. 97-100, Title I, § 100, Dec. 23, 1981, 95 Stat. 1395, provided in part: "That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value concessionaire investments without action." Similar provisions were contained in the following prior laws:
1980—Pub.L. 96-514, Title I, § 100, Dec. 12, 1980, 94 Stat. 2962.
1979—Pub.L. 96-128, Title I, § 100, Nov. 27, 1979, 93 Stat. 959.

B. REGULATIONS

1. 36 CFR, Section 5.3 (Authority For Commercial Use License)

§ 5.3 Business operations.

Engaging in or soliciting any business in park areas, except in accordance with the provisions of a permit, contract, or other written agreement with the United States, except as such may be specifically authorized under special regulations applicable to a park area, is prohibited.

2. 36 CFR, Part 51—Concession Contracts and Permits

PART 51—CONCESSION CONTRACTS AND PERMITS

Sec.

- 51.1 Authority.
51.2 Policy.
51.3 Definitions.
51.4 Solicitation and award of concession contracts and permits where no right of preference exists.
51.5 Solicitation and award of concession contracts and permits or extensions or renewal of concession contracts and permits, where a right of preference exists.
51.6 Preferential right for additional services where a right to additional services and facilities exists by specific contract provisions.
51.7 Sale, assignment, or encumbrance of concession contracts, permits, and assets.

AUTHORITY: The Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 3 *et seq.*, particularly, the Concessions Policy Act of 1965, 16 U.S.C. 20 *et seq.*

SOURCE: 44 FR 62895, Nov. 1, 1979, unless otherwise noted, unless otherwise noted.

§ 51.1 Authority.

Concession contracts and permits are awarded by the Director on behalf of the Secretary pursuant to the authority of the Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 3 *et seq.*, particularly, the Concessions Policies Act of 1965, 16 U.S.C. 20 *et seq.* All concession contracts and permits are subject to the requirements of this Part 51.

§ 51.2 Policy.

It is the policy of the Secretary, as mandated by law, to permit concessions in park areas only under carefully controlled safeguards against unregulated and indiscriminate use so that heavy visitation will not unduly impair park values and resources. Concession activities in park areas shall be limited to those that are necessary and appro-

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priate for public use and enjoyment of the park areas in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the park areas.

§ 51.3 Definitions.

The following definitions shall apply to this Part 51:

(a) "Concession Contracts" and "Concession Permits" (or "contracts" and "permits") are agreements between the Director and a concessioner whereby the concessioner agrees to provide certain public accommodations, facilities or services within a park area under the administration of the Director. Concession Permits are generally utilized where the authorized concession operations are not expected to gross more than \$100,000 annually, where the term of the permit is less than five (5) years, where no possessory interest is to be granted to the concessioner, and where no preferential rights to additional services are authorized. In other instances, Concession Contracts are utilized.

(b) "Right of Preference" refers to the right of existing satisfactory concessioners to a preference in the renewal or negotiation of a new contract or permit covering substantially the same accommodations, facilities and services as provided by the concessioner under the terms of its existing contract or permit. Prior to the expiration or termination of a contract or permit a determination shall be made based on annual evaluations, as to whether or not the concessioner is entitled to a preference in the renewal of its contract or permit. An unsatisfactory rating, results in the loss of the right of preference.

(c) "Preferential Right" refers to the right to provide new or additional services and facilities which may be granted to a concessioner by Concession Contract as the Director may consider necessary for the accommodation and convenience of the public.

(d) The term "Director" refers to the Director of the National Park Service or his authorized representatives.

(e) The term "Secretary" refers to the Secretary of the Interior or his authorized representatives.

§ 51.4 Solicitation and award of concession contracts and permits where no right of preference exists.

(a) Where no right of preference exists, the Director shall issue a prospectus soliciting proposals describing the concession operation to be authorized, the material terms and conditions of the proposed Concession Contract or Permit, and the principal factors considered in selection. Public notice of the availability of the concession opportunity shall be published in the FEDERAL REGISTER and/or at least once in local or national newspapers or trade magazines, as appropriate, and will be distributed to interested parties and organizations. The prospectus will be made available upon request to all interested parties and will allow a minimum of sixty days for proposals to be submitted unless a written determination is made that a shorter period is necessary because of exceptional circumstances. All proposals received shall be evaluated by the Director, and the proposal considered best by the Director on an overall basis shall be selected as the basis for negotiation of the Concession Contract or Permit.

(b) The principal factors to be considered in selection of the best proposal shall be (1) the experience and related background of offerors, (2) the offeror's financial capability, and (3) conformance to the terms and conditions of the prospectus in relation to quality of service to the visitor. Secondary factors shall include franchise fee offered and other factors as may be specified.

(c) The Director may solicit from any applicant additional information, or written or verbal clarification of a proposal, and may extend the solicitation period in his discretion. The Director may choose to reject all proposals received at any time and resolicit or cancel the solicitation altogether in his discretion when in the best interest of the Government. Any material information made available to any applicant by the Director must be made

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available to all applicants, and will be available to the public upon request.

(d) Negotiation of a final contract and permit with the selected applicant shall commence promptly. Material amendments to the proposed terms and conditions of the Concession Contract or Permit, as described in the prospectus, may be negotiated only after resolicitation of the concession opportunity for an appropriate period of time by amendment to the prospectus and readvertising. After negotiation of Concession Contracts with anticipated gross receipts in excess of \$100,000 or five (5) years or more in duration, such contracts shall be forwarded to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs for a 60-day waiting period prior to award. The Director may, in his discretion, terminate negotiation of a Concession Contract or Permit at any time prior to execution by the Government and resolicit or cancel the solicitation when in the best interest of the Government.

(e) The terms and conditions of the solicitation must represent the requirements of the National Park Service and not be developed to accommodate the capabilities or limitations of any particular party.

(f) Upon a written determination that exceptional circumstances warrant waiver of the procedures described in this subsection and that it is in the public interest to protect visitor or park resources or otherwise, the Director may negotiate a Concession Contract or Permit with any qualified party without public notice or advertising.

§ 51.5 Solicitation and award of concession contracts and permits or extensions or renewal of concession contracts and permits, where a right of preference exists.

The procedures described in § 51.4 shall apply to the solicitation, negotiation and award of extensions, renewals, or replacement of contracts or permits by a new contract or permit where an existing concessioner has a right of preference except as follows:

(a) A fact sheet rather than a prospectus will be developed by the Direc-

tor and will describe the existing concessioner's right of preference as well as the material terms and conditions under which the National Park Service proposes to negotiate a new concession contract or permit with the existing satisfactory concessioner.

(b) The concessioner with the right of preference shall be required to submit a proposal in response to the fact sheet. If, after evaluation of all proposals received, a proposal other than that of the existing concessioner is determined to be the best proposal, the existing concessioner shall be given an opportunity to meet the terms and conditions of the best proposal. If the existing concessioner does so and its proposal, as amended, is in the judgment of the Director, at least substantially equal to the best proposal, the existing concessioner shall be selected for negotiation of the contract or permit. If not, the contract or permit will be negotiated with the party that submitted the best proposal.

(c) The requirement for public notice and evaluation of proposals received may not be waived.

§ 51.6 Preferential right for additional services where a right to additional services and facilities exists by specific contract provisions.

Where the Director seeks to authorize new or additional accommodations, facilities and services of generally the same character as provided by an existing satisfactory concessioner in a park area, and such concessioner by Concession Contract has a right to provide such additional services, the Director shall develop a description of the new or additional services and the terms and conditions upon which they are to be provided without reference to any private party and give the existing concessioner a reasonable opportunity to review such description to determine if it wishes to provide the services. If so, the Director shall authorize the additional services by amendment to the concessioner's contract. If the existing concessioner does not agree to provide the additional services upon the terms and conditions described, the Director shall authorize

§ 51.7

Title 36—Parks, Forests, and Public Property

additional services to be provided by a new concessioner under substantially the same terms and conditions and pursuant to the procedures of § 51.4 hereof.

§ 51.7 Sale, assignment, or encumbrance of concession contracts, permits, and assets.

(a) Concession Contracts and Permits or operations authorized thereby or controlling interests therein may not be transferred, sold, or assigned, or assets thereof encumbered in any manner, including stock purchases, mergers, consolidations or reorganizations, except with the written approval of the Director. Transfers, sales, assignments, or encumbrances consummated in violation of this requirement shall be considered null and void by the Director and a material breach of the contract or permit.

(b) The term "controlling interest," as used herein means, in the case of corporate concessioners, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the concessioner so as to permit exercise of managerial authority over the actions and operations of the concessioner or election of a majority of the Board of Directors of the concessioner, and, in the instance of a partnership, limited partnership, joint venture or individual entrepreneurship, beneficial ownership of the capital assets of the concessioner so as to permit exercise of managerial authority over the actions and operations of the concessioner.

(c) Prior to consummating any transfer, sale, assignment or encumbrance of a controlling interest, the concessioner will request approval of the Director in writing and provide the following information:

(1) All instruments proposed to implement the transaction;

(2) An opinion of counsel from the buyer to the effect that the proposed transaction is lawful under all applicable Federal and State laws;

(3) A narrative description of the proposed transaction and the operational plans for conducting the operation;

(4) Statement as to the existence of any litigation questioning the validity of the proposed transaction;

(5) Description of the management qualifications and financial background of the proposed transferee; and

(6) A statement as to whether the proposed sale constitutes a controlling interest and the particulars thereof as described in paragraph (b) of this section; and

(7) Such other information as the Director may require.

(d) Prior to the sale, transfer, assignment or encumbrance of anything other than a controlling interest, the concessioner must have notified the Director in writing and must have received acknowledgement from the Director. Information as to why it is not a controlling interest and identification of the transferee must be submitted with the required notification. Failure to comply with this provision shall make the subject sale or transfer null and void and constitute a material breach of the Contract or Permit.

(e) The Director may choose not to approve a proposed sale, transfer, assignment or encumbrance in his discretion or may place appropriate conditions on any approval as are necessary to protect the public interest. Concession Contracts and certain Concession Permits contain provisions which limit the purposes for which they may be encumbered. Such limitations are incorporated by reference herein as an element of the Director's review of such transactions.

KANTISHNA GROUP INCORPORATED



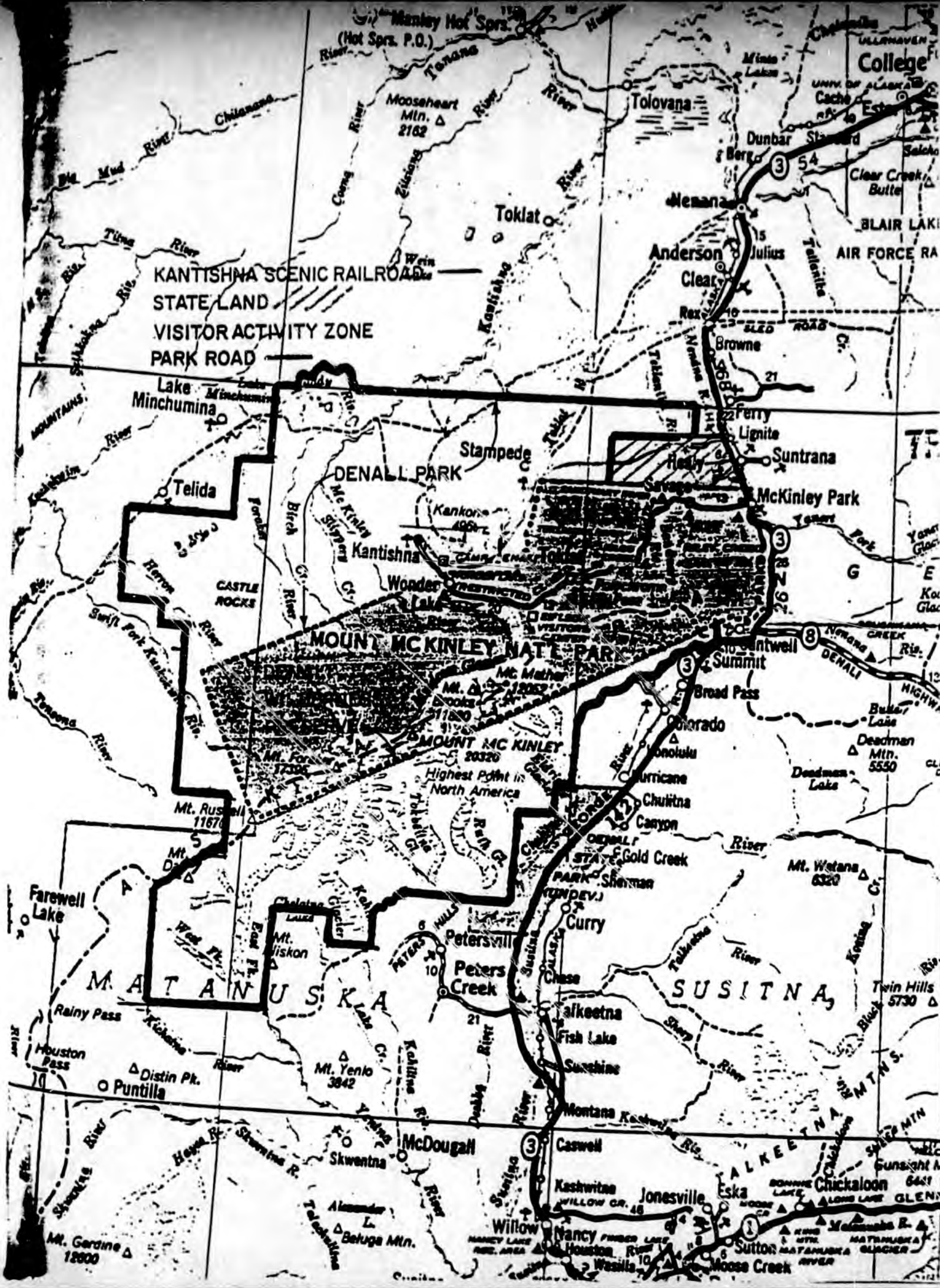
*PRESENTS
THE*

KANTISHNA SCENIC RAILROAD

To The
Historical Mining Community
Of

KANTISHNA

In The Shadow of
MT. MCKINLEY



KANTISHNA SCENIC RAILROAD
STATE LAND
VISITOR ACTIVITY ZONE
PARK ROAD

MOUNT MCKINLEY NATIONAL PARK

MATANUSKA-SUSITNA NATIONAL PRESERVE

DENALI NATIONAL PARK

Highest Pknt in North America

College

BLAIR LAKE AIR FORCE RA

DENALI HIGHWAY

SUSITNA

TALKEETNA MOUNTAINS

Mt. Gerstaecker 12000

SUNSHINE MOUNTAINS

WILLOW LAKE RES. AREA

CHICKALOON LAKE

MATANUSKA RIVER

KANTISHNA GROUP INC. (KGI)

KANTISHNA SCENIC RAILROAD & VISITOR ACTIVITY ZONE

PURPOSE - to greatly enhance the visitor attraction value of Mt. McKinley by the following development:

--A 90 mile electric powered scenic railroad linking the Parks Highway and Alaska Railroad in the Healy area to the historical mining area around Kantishna; 30 miles of the proposed route is through unreserved State owned land, 60 miles is through federal land (under stewardship of the National Park Service);

--A Visitor Activity Zone in the Kantishna area which is within Denali National Park but outside of the Wilderness Preserve;

The Kantishna area is ideal for viewing "The Mountain" for the following reasons:

--Proximity, about 20 miles;

--"The Mountain" rises to it's full height from a 2000 ft. base without intervening foothills;

--Kantishna is on the interior side of "The Mountain" and as such is shielded from the cloudy maritime weather of the south side, thus affording excellent opportunities for visitors to view "The Mountain"

Proposed Means to this end:

--The State of Alaska would acquire 60 miles of right of way and the Visitor Activity Zone from the federal government;

--KGI would lease the ROW from the State, build and operate the railroad, all with private funds;

--Various private entities would lease land from the State, develop and operate visitor facilities, campgrounds, hotels, demonstration mining, hiking trails, etc., in the activity zone;

--Development and use of these facilities would be supervised by the State to ensure it is done in a tasteful and environmentally sound manner;

--The National Park Service might wish to dovetail some of its visitor activities with those of the Railroad and the Visitor Activity Zone. Park Service busses could traverse the Park road, drop their passengers there and pick up a new load for the return trip thus doubling the people served without any increase in road traffic/environmental impact.

KANTISNA SCENIC RAILROAD - P2

Economics:

--Development of these facilities would be done by private enterprise with privately acquired capital; an estimated ticket fee of \$50 to \$70 would make the railroad affordable to the public;

--Estimated capital cost, railroad only - \$267m

Train operating cost per mile - \$71.5, per round trip - \$12,700;

@ 1m rides/year, \$55/ride, project \$55m revenue less \$15.55m operating costs yields \$39.45m income.

--Debt service on \$267m @ 20 yrs @ 9% = 29.25m Prin & Int.

--Project profit \$10.2 m PA.

--Railroad construction would provide some 500 jobs over a 3 year period, operation and maintenance would provide several hundred permanent jobs;

--Visitor facility construction could provide several hundred construction jobs and over a thousand operation and maintenance jobs both seasonal and permanent;

--All together, up to \$500,000,000 of new private investment capital could be attracted to the State economy, additional support development would occur in other areas of the State, particularly in Anchorage; the project would enhance other visitor activity (i.e. South of the range development) by attracting many new visitors; for most visitors it is their once in a lifetime trip to Alaska--they would want to see it all;

--The State would derive revenues from the leasing of the Right of Way and development sites in the Visitor Activity Zone, and from taxes on profitable activities;

--the State would provide support and supervision services and would realize a NET REVENUE GAIN from lease fees and taxes.

--Time line:

Year 1 -- 6/30/92. Determine political feasibility. If feasible --

Year 2-3 -- 3/15/93. Determine economic, environmental & engineering feasibility. If feasible go to design engineering.

Year 3 -- 6/1/93 -- begin construction; begin advance tour packaging and sales.

Year 4 - 6/1/95. Commence operation.

Visitor accommodations would parallel railroad construction.

KANTISHNA SCENIC RAILROAD - P3

RATIONALE

Here are some alternative actions, and their possible consequences, regarding the visitor attraction value of Mt. McKinley.

1. Do Nothing. The existing Denali Park "Highway" is overloaded and unsafe. Several hundred thousand visitors a year ride school busses in the Park from the Eastern entrance. Those who make it to Eielson Visitor Center (for a one hour "visit" sandwiched in a six hour bus ride) have, at best, a 50% chance of viewing "The Mountain". Continued heavy traffic threatens to drive wildlife away from the "Highway". Many visitors to Alaska return home less than satisfied with their Mt. McKinley experience.
2. Reduce Visitor Traffic on the Denali Park "Highway". Environmental degradation would decrease, wildlife habitat would improve, visitor satisfaction would decrease and the Alaska visitor industry would suffer thereby:
3. Improve the Denali Park road to true highway status. This would cost taxpayers well over \$100,000,000. Ongoing maintenance costs would be high. Severe environmental and wildlife habitat degradation would result. More visitors could travel the highway in greater comfort but they would see less wildlife and not significantly improve their opportunity to see "The Mountain".
4. Develop a Visitor Activity Zone at Kantishna with access via the existing Park road. Visitors could (after a 6 hour bus ride) have a 24 hour (or more) window of opportunity to view "The Mountain" from the best vantage point. Visitor Satisfaction would greatly increase. The Kantishna area has been mined since the early 1900's. There are about 1500 acres of patented mining claims in private ownership plus many unpatented claims. In addition there are 5 privately owned tourist camps in the area whose limited clientele have access by the existing Park road. The area is not pristine wildlife habitat so environmental degradation would not be significant. But this would be a logistical nightmare. Groceries, fuel, oil, and other supplies would have to be hauled in by trucks which would then have to backhaul garbage and sewage sludge, at considerable environmental impact along the highway. This would not work at all unless the Denali Park Highway were improved (See #3).
5. Build a new highway along the Stampede Trail RS2477 route from Healy to Kantishna. (See drawbacks in Item #3 and #4). Make the highway a loop from Healy to Kantishna to eastern Park HQ - (double the drawbacks in items #3 & #4). In addition, consider this! A RS2477 right of way implies public access. If this were the case, peak traffic to Kantishna could easily exceed 5000 vehicles a day necessitating a four lane highway with it's attendant problems - (quadruple the drawbacks of items #3 & #4) - road accidents, breakdowns, litter, vandalism and parking.

KANTISHNA SCENIC RAILROAD - P4

6. Develop a privately owned scenic railroad on a right of way leased from the State, from Healy to a Visitor Activity Zone in the Kantishna area.

Advantages:

- a) Privately financed, revenue positive for the State;
- b) Mass transit - the most efficient means of providing access;
- c) Controlled access - no litter or vandalism, no individual vehicle problems;
- d) A clean electric railroad travelling at modest speed (35 MPH) would have the least impact on indigenous wildlife; electric power demand for the scenic railroad would peak in summer, countercyclical to other electric power demand;
- e) No vast parking lot would be required at Kantishna;
- f) Visitor comfort and satisfaction would be high;
- g) Year-round access would be feasible;
- h) Several weeks would be added to either end of the prime Mt. McKinley visitor season;
- i) Such a visitor destination would increase the overall visitor traffic in Alaska to the benefit of all who participate in the Alaska Visitor Industry;
- j) THIS DEVELOPMENT WOULD DELIVER ON OUR PROMISE TO OUR VISITORS WHEN THEY COME TO SEE OUR MOUNTAIN.

Dear Rep. Moyer:

This letter is regarding SENATE JOINT RESOLUTION NO.44, a resolution that will be heard in the House Special Committee on International Trade and Tourism on April 14, at 5 PM.

SJR 44 is based on erroneous information and faulty assumptions, and will HARM Denali National Park, NOT enhance the experience. We will be killing our golden goose.

** The National Park Service has studied a northern Kantishna route for over a year and has recently come to the conclusion that a "new road is not justifiable for park purposes, wildlife, economics or visitor services.. The park's major concessioner, large tour companies and smaller inholder operations oppose both a northern access route and major changes to the character of the existing road." (See press release from National Park Service on the Denali Task Force recommendations enclosed.) NPS has been actively buying inholdings in Kantishna, and is opposed to new commercial construction in this fragile wilderness location. An unnecessary road will damage the unique remoteness that tourists come to experience in the Kantishna area.

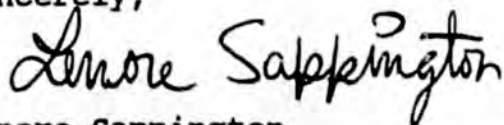
** The tourist industry has been opposed to this alternative road into Kantishna consistently. When the Access Task Force took testimony and met privately with the industry, ARA Outdoor World, Princess Tours and others came out squarely against this idea.

** SJR 44 proposes that the private sector should develop a new road. But the most current estimates from Alaska Dept. of Transportation acknowledge the road would cost \$50,000,000! Private industry could not do this without the state's help. Considering the current budget crisis, Alaska does not need to start down the path of any new boondoggles.

** The State of Alaska does not have right-of-way into Kantishna. (the hotly contested RS 2477 assertions, which will certainly spend years in court, only goes half way to Kantishna.)

This resolution is ill-conceived, and has the potential to damage Alaska's major tourist attraction. SJR 44 will not enhance, but damage Alaska's tourist attraction. VOTE NO on SJR 44 !!!

Sincerely,



Lenore Sappington
Denali Citizen's Council Board

NATIONAL PARK SERVICE

FOR IMMEDIATE RELEASE
February 19, 1992

CONTACT: John Quinley
Public Affairs (907) 257-2696

DENALI TASK FORCE RECOMMENDS NO NEW ROAD [REDACTED]

A task force of high-level National Park Service officials has found that with some improvements, the existing road in Denali National Park and Preserve is adequate and that a second road to Kantishna is not justified. [REDACTED]

The question of a second road was the most prominent issue for the task force, which was appointed last year by James Ridenour, director of the National Park Service. The recommendation is contained in the task force's report to the director, which was released this week.

The recommendations are the opinion of task force members, and have not been endorsed by Ridenour or the Department of the Interior.

The task force was directed to examine how the park has balanced the protection of natural resources with increased public demand for access to the park interior, to consider the safety and adequacy of the existing park road, and to consider alternative access to Kantishna, the major collection of private inholdings in the park's interior.

Public comment, testimony from private industry and the state of Alaska, and research into the park's mandates were used to reach the conclusions. The recommendations are aimed at protecting wildlife and other park values, improving safety, increasing visitation, and making park visits easier for people.

-- MORE --

The six recommendations are:

1. A new road into the Kantishna area of Denali National Park and Preserve is not justified in terms of its effect on the park purposes or on wildlife. Neither is it justified with regard to economics or visitor service.
2. Further study of alternative transportation technology, such as railroads or a monorail, is warranted. These have the potential advantage of being more environmentally sound than road transportation, and could provide a unique and high-quality park experience for additional visitors.
3. Portions of the existing park road should be upgraded immediately to improve safety and wildlife viewing experiences. A dust palliative should be considered.
4. Federal regulations for the control of private vehicle traffic along the Denali park road should be proposed. The park should maintain the current permit system for landowners needing to use private vehicles.
5. If cost-effective, the government should consider lease or purchase of a dedicated fleet of buses similar in size and quality to those used by the concessioner.
6. The park should consider a nationwide reservation system.

The task force found access to the first 15 miles of park road, hiking trails, major exhibits, lectures and demonstrations comparable to many parks in the Lower 48.

"Access to the park interior is not available on demand for every person who desires it. With some planning and flexibility, most people -- particularly resident Alaskans -- can travel the entire park road within two days of their arrival at Denali. With the existing Anchorage and Fairbanks in-person reservation system, even that 48-hour uncertainty is removed for many visitors," the report said.

"At some level, though, the Denali that people come to see -- the wildlife close to the road, the relative solitude, the sweeping vistas of the Alaska Range -- cannot be available for all who might wish to see it. A limit on road traffic is necessary to preserve the very viewing opportunities that make Denali unique. Tinkering with bus sizes, schedules and reservation systems is likely to squeeze several thousand more visitors into the park's 100-day season, but will not answer critics who insist upon unlimited access for all comers," the task force members said.

-- MORE --

The task force supported completion of the development plans for the south side of Denali, plans which will evaluate sites for a visitor center, trails, and other facilities. The four draft concepts for development were outlined in a workbook made public February 14. Public comment will run through April 10, 1992.

The task force also supported the Alaska Region's facility development priorities for parks other than Denali. "Investing in other areas -- with visitor centers, trails, campgrounds and the necessary administrative facilities -- would bring Alaska far greater, and surer, benefits than would expanded facilities in the Kantishna area," the report concluded.

The members of the task force were John M. Morehead, associate director for operations, Washington, D.C. (since appointed Alaska regional director); Don Castleberry, regional director, NPS Midwest Region; Paul Haertel, associate regional director, Alaska Region; Bob Barbee, superintendent, Yellowstone National Park; Russell W. Berry, Jr., superintendent, Denali National Park and Preserve; Elmer Hernandez and Jim Straughan, transportation planners, NPS Denver Service Center.

-- NPS --

I. EXECUTIVE SUMMARY

As one of the premier wildlife viewing areas in the National Park System, Denali National Park and Preserve is properly considered a major visitor destination for people around the world. More than any other attraction, the mountains and wildlife of Denali define Alaska for thousands of visitors and for scores of companies marketing the Last Frontier.

Like national parks in the Lower 48, Denali has struggled to accommodate growing visitation and respect the rights of inholders while at the same time has fulfilled its mission to protect the wild life, natural processes, and scenery of the park for generations to come.

The focus of that struggle has been the 90-mile park road, a narrow ribbon reaching deep into a wilderness valley. The balance struck for the past 20 years -- limited private vehicle access, provision of free public transportation and encouragement of inholders to minimize their use of the park's only road -- has, for the most part, worked.

This task force was charged with examining that balance, to consider the safety and adequacy of the park road, and to consider alternative access to Kantishna, the major collection of inholdings in the park's interior.

After several public meetings and meetings with state, local and business organizations, the task force recognized there existed a broad range of opinion regarding the future of Denali National Park. Further, the task force realized that any compromise which maintains the balance of the Park Service's mission will necessarily leave some interest groups less than satisfied.

The task force makes the following six primary recommendations to the Director of the National Park Service:

1. **There is no need for an additional gravel or paved road into the Kantishna area of Denali National Park and Preserve. A new road is not justifiable in terms of its effect on the park purposes or on wildlife. Neither is it justifiable with regard to economics or visitor services. The park's major concessioner, large tour companies and smaller inholder operations oppose both a northern access route and major changes to the character of the existing road.**

RECOMMENDATIONS

Regarding Alternative Access Proposals

Regarding the proposals for alternate access routes, the task force makes two recommendations. First, there is no need for a new road, and, second, there is need for further study of rail transportation into the park. A detailed discussion follows:

1. No need for new road

The task force finds no convincing argument for a new road in the park for the purposes of access for Kantishna inholders and accommodation of current and foreseeable visitation. The primary reasons for this conclusion are fourfold:

1. **CURRENT CONDITIONS** -- The level of business activity, new business starts, visitation and mining do not justify additional access. There are only four active businesses in the area. They are seasonal operations, and are not currently filling all existing rooms. Two of the four existing businesses oppose a new, northern access route.

No mining has taken place for six years. The policy of the Department of the Interior is to follow the 1990 environmental impact statements which recommended the public acquisition of mining claims in Kantishna. There are many willing sellers, and Congress has begun appropriating money for the purchase and reclamation of claims. The preponderance of evidence is that, in coming years, much of the private property in Kantishna will return to public ownership, and that businesses will remain small, family-run, operations, offering a high-quality, low-volume experiences.

2. **PARK PURPOSES** -- The northern portion of the park was added by Congress in 1980 in large part to protect the habitat of bears, moose, caribou, sheep, wolves, swans and other waterfowl. The construction of a north-side road, and subsequent use by private and government vehicles, would clearly cause new disturbances to wildlife. The extent of this disturbance is unknown. This concern would be even stronger if calls for a year-round access road are heeded. The northern route crosses large areas of wetlands -- an obstacle which 70 years ago contributed to the choice of the existing road alignment. Most winter routes from the Healy area to Kantishna were routed, in part, along frozen glacial river beds -- a problematic alignment for summer travel.

METRO

TUESDAY, Feb. 25, 1992

ANCHORAGE DAILY NEWS



BILL ROTH / Daily News photo

One road is enough, says a panel of state and national officials who spent two years studying ways to alleviate the visitor crunch at Denali National Park and Preserve. In the fall, permits allow private vehicles into the park. These people are watching a grizzly.

Denali drive Park Service planners advise against another road in park

By DAVID HULEN
Daily News reporter

Planners studying the future of Denali National Park and Preserve have concluded that building a second road to the Wonder Lake-Kantishna area in the heart of the park makes no sense. They are suggesting instead that the existing 90-mile road be upgraded.

The report, by a team from the National Park Service, also suggests further study of a passenger railroad or even a monorail system to ease congestion inside the 6 million-acre park, which has long been Alaska's most visited. And it suggests other ways to ease congestion and make it easier, and more comfortable, for tourists to enter the park.

The Denali access study was

launched two years ago to help the Park Service come to grips with perhaps its most pressing dilemma in Alaska — how to handle an increasing number of Denali visitors, and growing pressure to develop new facilities to serve them, without threatening the wildlife and wilderness that attract people in the first place.

As many as 185,000 people are shuttled in buses along the dusty, lane-and-a-half road each summer. Hotels and other tourist facilities outside the park's entrance continue to expand. To keep the park and its wildlife from being overrun, the Park Service has limited the number of visitors, sometimes creating long waits for bus seats



RON ENGLSTROM / Anchorage Daily News

Please see Page B-2. DENALI

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By MARILEE

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DENALI: Panel advises against second road

Continued from Page B-1

and camping permits. And to ease the pressure, the agency also is pressing ahead with development of new tourist facilities on the south side of the Alaska Range.

But others, including private developers, Gov. Wally Hickel and U.S. Sen. Frank Murkowski, have long advocated building a second highway into the park from the north, starting around Healy and ending in the Kantishna Hills northwest of Mount McKinley, where some 6,000 acres are in private hands. They envision one or more large-scale hotels in the area, which they argue could remain open year-round given proper access.

State studies have estimated the new road would cost between \$85 million and \$125 million.

The new 37-page study, however, is skeptical of the idea. It says a new road would slice across wilderness set aside for wildlife, including bears, moose, caribou, sheep, wolves and swans. It questions whether business prospects in the Kantishna area justify a highway's expense or would add much to visitors' Denali experience.

"A second road would dramatically change the character of the park," the

report says. A north road "puts at risk the up-close viewing of animals that draw people to Denali. It adds nothing to a visitor's ability to see the mountain. And it changes the visitor's perception that he is riding to a special place, a place set apart from the urban world of pavement and high-speed transportation."

The study was prepared by a team that included Park Service Alaska Regional Director John Morehead, Denali Superintendent Russ Berry, the superintendent of Yellowstone National Park and other Park Service officials from Alaska and Outside.

The report was forwarded to Park Service Director James Ridenour, and hasn't been endorsed by him or Interior Secretary Manuel Lujan Jr., who oversees the Park Service.

While downplaying the notion of a second road, the report plays up the notion of a rail or even monorail system. While more expensive to build than a road — possibly too expensive to even seriously consider — they could help deliver more visitors with less impact, the report says.

"They produce little or no dust, may be quieter and might carry more passengers in greater comfort." A monorail, moving above the

ground, would allow wildlife to roam beneath without the danger of collisions with rail cars.

A \$300,000 federal study, to begin later this year, will study monorail systems in Denali, Yellowstone and Yosemite national parks, the report notes. The measure was placed in the federal budget by U.S. Sen. Malcolm Wallop, R-Wyoming.

The cost of urban monorail systems has ranged from \$10 million to \$40 million a mile, the report says. A Fairbanks engineering firm has estimated that a 90-mile light-rail line from near Healy to Kantishna would cost \$189 million, not including rail cars. In general, the state Department of Transportation estimates that it costs about \$2 million a mile to lay new track in Alaska.

Among the new report's other suggestions:

- Upgrading the existing road to improve safety and wildlife viewing, including adding guard rails, widening the road and improving the roadbed. Ways need to be found to make the road less dusty, the report says.

- The Park Service should consider dropping the fleet of privately operated school buses that now shuttle most visitors for free through the park. Instead, the service should consider buying or

leasing a fleet of larger, nicer buses, possibly similar to those run by the private tour company for deluxe Denali tours. The buses would remain free, but would allow more people to ride through the park.

- Consider setting up a national reservation system, so visitors from Outside could reserve campground and shuttle-bus seats before coming to Alaska.

Lt. Gov. Jack Coghill, a longtime proponent of a second road to Kantishna, said Monday he really likes the idea of a railroad or monorail. But he still thinks a new road makes sense, too, and noted that the secretary of interior could overrule the Park Service planners.

On the other hand, Jack Hession, Anchorage-based representative of the Sierra Club, which has been leery of additional development inside the park, was generally happy with the report.

"You reach a point, the more vehicles you let in, you're not going to see much wildlife. At some point, the Park Service is going to have to say: You can build all the hotels you want, but we can only accommodate so many visitors."

The Park Service, meanwhile, has launched a separate biological review of the effect of vehicle traffic on Denali wildlife.

Tug crew rescue

AKUTAN — A tug boat snowed out and high seas crewmen whose boat sank in fishing port of Akutan. Boy radioed for help aboard master John Pelkey. Leamen were safely aboard spokesman in Juneau efforts. The volunteer rescue completed so fast, the Coast Guard to send a search vessel were not immediately into trouble as it returned of cod. It also had about when it sunk. The boat's dangerous strait where the Ocean converge. The snow squall, with high seas crew got into survival life raft. They eventually positioned itself to take

Juneau-to-Vancouver

WASHINGTON — Sen. Murkowski urged United States and Canada to work toward an agreement on air service between Juneau and Columbia. Murkowski would promote tourism in Alaska and Canada. "The ground linkages unexplored opportunities that exist," Murkowski said in a new U.S.-Canada air service spring. The next round of

Protesters picketed

SOLDOTNA — A half-dozen protesters picketed a Planned Parenthood Sunday. There were no protesters at the Peninsula Evening" drew protesters carried a doll in a miniature president of the Right to Life Parenthood "one of the Planned Parenthood money raised during the Kenai Peninsula to fund Soldotna and its education our bash," Kessler said liberals to get together

AIDS quilt promotion

FAIRBANKS — Sponsors panels from the Names Project say costs of displaying quilt prompted them to host fund-raisers. Shipping and discounted rent at the quilt will be shown, is another Interior AIDS Association in sight. It was the quilt. A comedy program, music and fashion show are planned. Immune deficiency syndrome some cities in the Lower quilt will be shown March admission charge, but a panel by gay activist Cleve Jones carries the name of AIDS.

RONDY: Fake mementos devalue real collectibles

Continued from Page B-1

Whether the counterfeits were produced back in 1977, or more recently because increased value has made a scam worthwhile, is not known. According to Smith, the fakes showed up within the last year.

Smith has also seen a counterfeit 1982 Iditarod pin, a design featuring two black and white sled dogs in harness. The genuine pin has "Fairbanks, AK." and a phone number on the back, he said. The fake has no

writing on the back.

The Iditarod committee produced 5,000 large commemorative pins this year, said race coordinator Joanne Potts. Like Rondy, her organization takes legal steps against anyone who abuses its trademark. One unauthorized T-shirt dealer ended up paying a 15 percent royalty and all legal fees, Potts said.

Selling collectibles is big business and important to the financial health of both organizations. According to

Shavellana, Rondy's approved merchandise brings in \$700,000 a year.

Buyers can avoid paying too much, or getting stuck with fakes, if they check out a seller's reputation ahead of time with the Fur Rendezvous office, she said. Rondy also distributes a fair-value list of prices.

Given the large number of pins floating around, why are people so willing to pay a premium to collect them? Smith ticks off three reasons: Nostalgia, they're pret-

ty, and greed. "People invest in them because they know they will appreciate in value," he said.

Some people are very serious indeed about their collections. Smith manned a booth at the Egan Center during the just-ended 1992 Rondy. A woman wrote him a check for \$2,000 for various pins and buttons, he said. Then he watched her stand outside in the cold, clutching her little \$2,000 bundle, while she waited for a bus.

Jury convicts teen-ager of murder

By DON HUNTER
Daily News reporter

A jury convicted Christopher Jerue of second-degree murder Monday for sitting by while a 17-year-old friend killed a man last September.

The murder of Frank Corley II started out with Corley's offer to buy beer for the underage youths and party at his house, according to evidence at Jerue's three-day trial last week.

The jury also convicted Jerue, 18, of first-degree robbery and tampering with evidence. Sentencing is set for

Friday about 6 p.m. Friday night, but Judge Milton Souther ordered it sealed until Monday morning.

In a videotaped statement to police played for the jury, Jerue said the youths planned to rob Corley, using a pistol carried by the juvenile, identified in court records as L.S.

But Corley, 32, made passes at L.S., and the youth decided to retaliate after Corley fell asleep on a couch. According to Jerue's statement, the boys sat

peatedly saying he was going to shoot Corley.

Jerue's story was ambiguous on a key point: whether he believed the boy was actually going to shoot. At some points, Jerue told police he had urged the youth to "hurry up" and shoot if he was going to. At others, he said the idea of killing Corley freaked him out and that he thought the juvenile was joking.

"I didn't think he was serious," Jerue told police.

Jurors evidently gave him

first-degree murder, which required a finding that he intended for Corley to die, but convicted him of second-degree murder, which requires that he acted with "extreme indifference" to human life.

After the shooting, the boys drank some more beer and stole several things from Corley's apartment, including two bikes, a sweater and money.

L.S. was 17 at the time of the shooting but has since turned 18. Prosecutors want to try him as an adult and

Japan tour im-

The Associated Press

FAIRBANKS — Area students who spent eight days visiting Japanese families this month were impressed by the nation's frugality and friendliness.

"You wouldn't think eight days you could become so attached, especially with the language difference," said Melissa Gordon, a high school senior from Fair-

B

METRO

The Anchorage Times

THURSDAY
February 20, 1992

Panel recommends improving Denali road

By DANIEL R. SADDLER
TIMES WRITER

The 90-mile gravel highway through Denali National Park and Preserve should be improved to handle more visitors and protect wildlife at Alaska's biggest tourist destination, a high-level task force reported Wednesday.

The six National Park Service officials also considered, but rejected, a proposal

to build a second road along a historic mining trail. The second road was one of the main options considered by the panel, organized a year ago to consider ways to balance visitor pressure with park protection.

While the report to Park Service Director James Ridenour recommends modifying the park's transportation system to allow a few thousand more visi-

tors, a task force member said the best way to relieve overcrowding on the road could be a railroad or monorail system.

"I think the alternative transportation systems would be very effective," said Jack M. Morehead, Alaska regional director for the Park Service and a task force member. "It would protect wildlife viewing and still allow people to visit the park."

Congress already has appropriated \$300,000 to study the possible use of such systems at Denali, Yellowstone, and Yosemite national parks, said Park Service spokesman John Quinley. Results from the study are not expected for a year.

The task force also recommended the National Park Service consider:

- Widening and improving sections of

the road to improve safety. Quinley said the service will this summer estimate the cost of widening the road, which at some high mountain passes is cut into sheer rock.

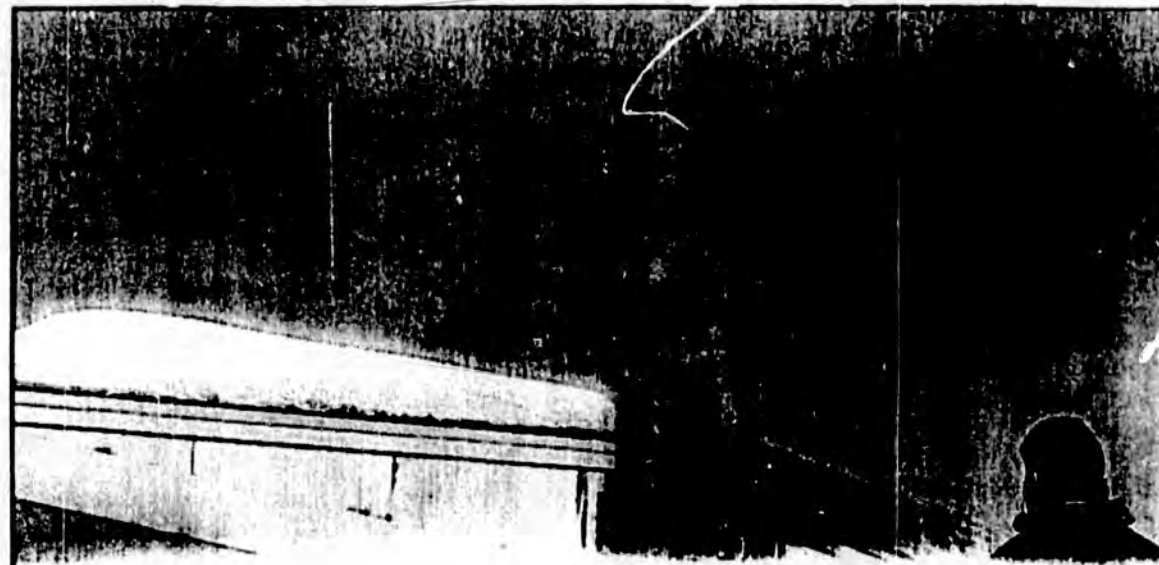
- Enacting federal regulations to establish a clear legal basis for the permit system now used to allow entrance to visitors and those owning land inside the

See Road, back page

Muldoon fire under scrutiny

By HUGH CURRAN
TIMES WRITER

After rescuing an elderly man from the burning apartment above his own, Tom Yates stood in the street holding his blanket-wrapped son and thought about the future.



McAmis acquitted in Sewell murder

By STEVE PILKINGTON
TIMES WRITER

Robert Patrick McAmis walked free from the courthouse Wednesday after a jury took two hours to acquit him of murder, kidnapping and evidence tampering charges in the 1989 shooting death of Charles A. Sewell.

The lightning verdict ended weeks of testimony about shady murder plots, drugs and lies, all

"I think the jury was convinced that Pat (McAmis) had something to do with it, but I don't think they were convinced beyond a reasonable doubt," he said.

Prosecutor Mary Anne Henry had argued McAmis had the motive and the opportunity to kill Sewell.



ered and all Meriano were married in Vancouver, British Columbia, in 1926. They came to Alaska four years later to watch

Road

Continued from page B1

park.

- Buying or leasing a fleet of bigger, plusher buses than the school buses the Park Service now uses to offer free wildlife tours to about 100,000 visitors a year. A private concessionaire, ARA Outdoor World Ltd., charges about \$50 for a tour on more comfortable buses.

- Linking the park with a nationwide reservation system so that out-of-state visitors could be assured of a camping space. Some spaces would also be set aside for Alaskans, Quinley said.

"These were recommendations of the task force to the director," Morehead said. "What he decides or the secretary of the interior decides is completely out of our control."

Morehead said the task force gave equal consideration to those who supported a second road, such as the Hickel administration and the Fairbanks Chamber of Commerce, and to the environmentalists who opposed it, such as the Sierra Club.

The recommendations do not mean the end of the idea for a second road to Kantishna, Morehead said. The state is still pursuing plans to employ a 126-year old federal law that could win it a right-of-way to other trails into Kantishna.

"They still have that avenue to pursue, but I'd say as far as seeking federal funding for a second road, this is certainly a deterrent," Morehead said.

The park receives nearly 600,000 visitors a year, many of whom take the bus tours along the road. But the increase in visitors has raised concerns the visitors may harass or drive away the wildlife the visitors pay to see and that increased vehicle traffic could pose a safety hazard to humans.

Morehead said the task force recommendations could provide some improvement, but he said they would not solve all problems.

"There'll be a lot more visitors that want to visit, but can't," Morehead said. "The real hope is to look forward to the future for alternative transportation technologies."

Planned home for president of UAF criticized

ASSOCIATED PRESS

FAIRBANKS — Privately funded plans for the a new home for the University of Alaska president have upset some campus leaders, prompting one University of Alaska Fairbanks professor to call the \$300,000 project "symbolically immoral" as UAF struggles through financial hard times.

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EDITORIAL

OPINION & COMMENT

Other opinions expressed on this page do not necessarily reflect those of the Daily News-Miner

Keep trying for Kantishna access

A task force looking at access to Denali National Park should have taken a longer-range view when it recommended against building a new road to the Kantishna area along the north side of the park, connecting to the existing road at Wonder Lake.

The task force—composed only of six high-ranking park service officials—recommended improvements to the 90-mile dead-end road that provides the only vehicle access into Denali Park, but said a new northern access road to Kantishna is not needed and is not a good idea.

The response of the Fairbanks Chamber of Commerce, which has sought such a road for years, was swift and negative. The chamber fired off a one-sentence letter to Interior Secretary Manuel Lujan calling the report "biased, poorly researched, unreflective of public testimony and consequently devoid of value."

Since the report does contain some good ideas, we can't wholly endorse such a blanket indictment. But we are disappointed with the recommendation against a new northern access road. In reaching that conclusion, the task force seems to have considered existing activities in the Kantishna area, rather than looking at the potential.

Visitation to Denali Park has increased dramatically almost every year since the George Parks Highway was opened in 1972. With continued state and local tourism marketing, pressure on the park is going to increase. The park service needs to take a long-term view as it decides how it is going to handle that pressure.

The task force suggested upgrading the fleet of buses to coaches that would hold more passengers. That's a good idea, in part because the coaches would be more comfortable than the school buses now in use, but in terms of handling more people, it's a stop-gap solution that won't help for more than a few years.

The task force did urge the park service to look at alternative transportation such as a monorail or railroad. The group didn't recommend a route, but noted that the cost per mile for a railroad is apt to be about \$2 million; for a monorail, \$10 million to \$40 million. Either project would cost billions. The Kantishna road could be built for \$85 million to \$125 million.

The state Department of Transportation has listed a Kantishna Road on the list of projects it wants to build. We encourage the state to pursue the project, despite the recommendations of the task force. In the long run, the road would be an asset to the state and to the park.

Welcome, placer miners

Placer

American work

BOSTON—Somewhere on the evening news, in between stories of various disasters and ads for various bodily dysfunctions, there appears the airline pilot.

Well-paid but discontented. Handsome as the anchor man himself, but weary with his working man's lot.



The pilot in this commercial vignette has come to his stockbroker to plan for the future before his horizons are reduced to Polident and Serenity.

He is in a rut—if there are ruts in the sky—going back and forth between Detroit and Minneapolis. Together he and his attractive financial planner chart a new route for his life: an escape route.

The ad has intrigued me, and not only as a break from the bran flakes. It comes on the heels of an ad last year by a brokerage house that featured a *cinema verite* chat between well-heeled and burned-out executives. Only one had planned for what they all wished to buy: freedom.

I assume that businesses which

deal with money what customers their greenbacks. financial planners ing Mercedes and treats. Their mess many prosperous p ica want is simple.

Admittedly, this ment limited to the off. Nor is it entirely heart of many a buyer. But when the cess story is an exit is going on.

A few years ago, v ter Susan Stambe what she wanted to answered in one wo the time I thought it



LETTER

Denali National Park an at 7 p.m. in the Noel Wie The centerpiece of this