



FRIENDS OF KENNICOTT, INC.

Box 241362, Anchorage, Alaska 99524

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Bruce Rogers, Planner
Wrangell-St. Elias National Park and Preserve
P.O. Box 439
Copper Center, Alaska 99573

Dear Bruce:

On behalf of Friends of Kennicott, *thank you* for your continued dedication to on-going community outreach during development of the revised Kennicott Operations Plan. Regarding the November 2011 Final Modified Proposed Action, once again, you and your National Park Service (NPS) colleagues have done an outstanding job of interpreting stakeholder comments and further massaging the evolving proposed action in anticipation of the environmental assessment and alternatives. Friends of Kennicott is certain this extra effort is paying off, especially the attention to comments from the McCarthy Area Council (MAC), which represent a huge community investment in the planning process. We also appreciate the clarification in the November 30, 2011 reply to MAC that some portions of the current document will be subject to alternatives (such as the degree of building rehabilitation), and other portions are gelling into, essentially, policies and actions common to all alternatives. It is reassuring to understand that the closely scrutinized local hire provision, for example, will not have a “no local hire alternative”; but instead will become part of the foundation of the plan regardless of the final alternative.

At this point in the process, Friends of Kennicott has only a few issues we recommend addressing before the environmental assessment is released for public review. Key issues are summarized in the following bullets and subsequently discussed in more detail. Other comments are addressed at the end as page-specific comments.

- Clarification about public involvement, “public meetings,” and the need to identify and employ a full spectrum of public engagement techniques throughout plan implementation in order to achieve true partnership between NPS, the community and other stakeholders.
- Clarification of responsibilities of NPS regarding covenant enforcement and NPS willingness to participate with others in creating a forum for collaborative discussion regarding covenant implementation.
- Clarification about “light touch” that strengthens the intent without conflicting with the Secretary’s Preservation Standards.
- Recognition of the embedded Kennecott community within the General Goal statement.

Public Engagement

The Park's renewed commitment to a partnership approach is supported throughout the document by references to public involvement, public meetings, and recognition of the need to determine "how and when" public involvement might occur (page 9, second bullet). Fulfilling this commitment will require not only including, but also going beyond standard public meeting formats and legally required public review opportunities for NPS documents. At times, it will involve ongoing collaborative processes of various forms, fit to suit specific circumstances.

The process by which this Proposed Action for Management and the Kennecott Operations Plan are being developed is an example of such innovative, collaborative partnership. In addition to required public meetings and NEPA review, NPS has initiated numerous and ongoing, formal and informal conversations with individuals and groups, along with multiple opportunities to offer suggestions for and make comments on early-stage drafts, beginning prior to framing of options and construction of the scope of possibilities. This is excellent.

One of the most important accomplishments of the Kennecott Plan can be committing NPS and welcoming the community to this level and style of partnership, so that all expect it in the future. Because the partnership approach is dependent upon going beyond typical institutional norms, this commitment must be explicit and its characteristics clear. The Plan should help this commitment survive leadership transitions in the agency and community. It should help agency staff, community members and other stakeholders understand its purposes and appropriateness. It should help the Park envision how a partnership approach can be practically implemented, the planning and communication skills that will be required, and how it can be conducted in ways compatible with NPS mandates for protecting national and public park values and resources.

Exactly how partnership will be carried out in any given instance can vary, so can't be detailed in the Operations Plan. However, the plan can and should describe appropriate goals and methods for its attainment, with examples of suitable processes and mechanisms. The plan should also clearly differentiate between hierarchical formats with linear communication, such as public meetings and NEPA document comment periods, and collaborative formats with networked communication, such as those exemplified in the present planning process and in various forms of workshops and stakeholder working groups.

For example, a working group led by a skilled facilitator can open up a productive, conversational dialogue – often useful to define issues and brainstorm possible solutions; while a normal "public meeting" is typically characterized by an agency presentation followed by a string of individual, compartmentalized reactions – commonly used during a formal public comment period when a specific action is proposed. And as this plan revision process has so successfully illustrated, there are many other ways to engage the public besides meetings, such as the circulation of Word documents that provide recipients with time to reflect and provide thoughtful feedback. In addition, informal one-on-one conversations with park staff provide a venue for those who, for whatever reason, choose not to participate in meetings.

The Kennecott Interpretive Plan workshop held in June 2011 is illustrative of an in-depth facilitated discussion. The multi-day format was admittedly time-intensive, but highly

productive. Those with the highest interest and/or stake in the outcome choose to participate throughout, while others attended for lesser periods but were still able to share their views.

We also recommend conducting a retrospective of the 2010 Donaho meetings as a learning tool. That series of meetings led to some valuable insights and innovative solutions, but also saw some flaws and a lack of key follow up. We recognize that high quality public involvement can be challenging, which further supports the need to think and act strategically.

In light of the various needs for public engagement and the array of available techniques, we recommend modifying the “Partnerships” and “Communications” sections to incorporate these points. We recognize that finding good wording for these sections is a challenge and look forward to continuing to work on it with NPS.

Covenant Enforcement

As written on page 12, NPS inappropriately abdicates its role as a property owner able to undertake action to enforce the covenants – essentially saying that other property owners may enforce the covenants, but NPS will not. We recognize that NPS does not want to be the sole enforcer of the covenants, and that most other Kennecott landowners would be opposed to this as well. Yet realistically, the NPS is likely the only landowner with the professional expertise and legal resources to initiate an enforcement action.

The covenants have great value in institutionalizing many of the shared values of Kennecott landowners, other local residents, and the visiting public. These values include maintaining historic integrity and authenticity; the ability to support continued residential use; a place for modest-scale, unobtrusive commercial activity; and a place where visitors and residents can expect some peace and quiet (at least at some hours of the day) to be reminded of the remoteness and wilderness setting. By the same token, the covenants are not rigid. They recognize the critical need for case-by-case flexibility through an Architectural Control Committee (ACC) review process. This process, however, has long been broken. The covenants are not being consistently implemented. And at present there is no effective forum for collaborative discussion of development proposals, exploration of consensus solutions for proposals that deviate from the covenants, and agreement on enforcement action, if and when legal steps are called for as a last resort. Because the ACC is controlled by an NPS majority, it cannot serve this purpose.

In sum, today:

- The ACC is not functioning.
- Some non-NPS landowners are leery of too much NPS control in the ACC.
- Some are afraid of NPS over-enforcement of the existing covenants if the ACC is revived.
- Some are also concerned that the covenants are not being sufficiently implemented.
- NPS actions affected by the covenants are not being scrutinized in a visible process.
- Non-NPS landowners have no effective voice.
- There is no effective, reasonable and balanced forum for dialogue about covenant issues.
- Without such a forum for development of solutions, legal action is the only covenant management tool available.

No one is happy with the current situation.

In light of the above, we propose exploration of a supplemental process to facilitate a more inclusive discussion forum, less formal than the ACC and not dominated by NPS, to provide opportunity for measured flexibility and consensus-building. Kennecott landowners, as a whole, have shown they care about protecting their shared values, while they also want to respect individual property interests. We are confident that, given a more balanced opportunity to work together, Kennicott property owners are collectively capable of voluntarily crafting effective solutions that meet most landowner interests most of the time, and sufficiently protects the separate but overlapping public interest. As a Millsite landowner, we expect NPS would participate in the dialogue, but not be in charge. We also envision this process would not replace the ACC, but would be a supplemental opportunity to engage more non-NPS landowners in constructive dialogue. This concept has good potential to mitigate the widespread concerns about unilateral NPS control, and fears about both covenant over-enforcement and under-enforcement. A proposed project that had been fine-tuned through this neighborhood-based informal process would likely have little difficulty being approved by the ACC.

Friends of Kennicott recognizes this is a new idea for a longer-term strategy that requires further dialogue among other Millsite landowners and stakeholders, including the NPS, to define the general intent and possible mechanisms for achieving it. For purposes of the Kennecott Operations Plan we recommend the following revisions to the paragraph about the ACC, NPS and covenant enforcement:

While the ACC may serve to notify lot-owners of non-compliance with covenants, it is not the ACC's or NPS responsibility to enforce the covenants. According to the Declaration of Restrictions, "If any lot owner or their successors shall violate or attempt to violate any of the covenants herein during the period for which they are enforced, it shall be lawful for any person owning any real property subject thereto to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants, and prevent him or them from so doing or to recover damages for such violation. NPS has the same rights and responsibilities as other Millsite Subdivision property owners regarding covenant implementation and enforcement. The NPS is willing to work with Millsite landowners and other stakeholders on ways to improve management of covenants that maintain their effectiveness, provide for reasonable flexibility, and reduce the need for legal action as a management tool.

Light Touch Management Concepts

Friends of Kennicott greatly appreciates the NPS willingness to define the "light touch" approach in relation to the Secretary's Preservation Standards through a cooperative process involving local residents. To further strengthen and clarify NPS intent, we recommend an additional modification to the first paragraph following the bullets on page 7:

The NPS supports the management concepts that the community and Friends of Kennicott have articulated above, with the exception of ~~the second bullet statement. NPS cannot commit to the undefined terms of "small steps", "modest cost", or "minimal intervention" in its proposals for preservation of historic structures in Kennecott.~~ application of the second bullet statement to preservation of historic structures in Kennecott. The terms "small steps," "modest cost," and "minimal intervention" are at present too undefined to serve as constraints on NPS building preservation actions. NPS

is willing to work with the community in defining “light touch” relative to the Secretary of Interior’s Standards for Treatment of Historic Properties and in cooperation with the State Historic Preservation Officer.

General Goal Statement

We request the overarching General Goal on page 7 include a brief recognition of the embedded Kennecott community and/or the NPS relationship to this community. We recognize and appreciate the more detailed attention to this subject in the subsequent section; and believe that some basis for all the effort the NPS and community are putting into building a successful partnership needs a foundational cue in the General Goal statement. Given the integrated pattern of private and NPS lands, and the history of the acquisition, some reference is more than justified. Such a reference will become more important over time.

Page-Specific Comments

Page 3, Applicable Laws, Regulations, and Policies. We appreciate the inclusion of the statement: “If the need arises, the park has the ability to recognize and preserve structures and features outside of the period of significance....” This ability is critical in light of the integrated contemporary local community and gateway to the surrounding backcountry.

Page 9, section 4, Civic Engagement by Park Employees. We appreciate inclusion of intent language to develop direction for employees that allows for appropriate participation in local public meetings. In crafting this direction, we urge the NPS to consult with affected park employees as part of the internal NPS development of the direction, and – following the first year of implementation – seek feedback from affected employees and MAC to measure its success and determine if tweaks are needed. Below is an example of an expansion (underlined sections) of the current intent statement that incorporates this request:

Following consultation with MAC and affected employees, WRST will develop direction for employees that allows for appropriate participation in local public meetings. This direction will be described in the WRST Employee Handbook and will be reviewed with all employees at seasonal orientation and announced at the spring MAC meeting. Following the first year of implementation, NPS will consult with MAC to assess the effectiveness of the new direction and consider revisions if necessary.

Page 9, second “Communications” bullet. The issue-specific meetings will play a key role in plan implementation. Consistent with our general comment, the NPS should carefully consider what type(s) of “meetings” and other public involvement tools will be employed to address each. As with this overall planning process, taking the time to conduct an incremental, iterative dialogue on important issues will pay off in the long run.

Page 10 Communications. We suggest revising the last sentence: “A list of participants will also be recorded and kept as part of the meeting ~~minutes~~ record.” Developing “minutes” is not always appropriate or desirable for certain types of meetings. Determining an appropriate public involvement strategy includes the type of meeting documentation. For informal discussions and group problem solving sessions, simply documenting the outcomes is usually more appropriate than preparing a detailed “He said, she said,” which can also make it awkward for individual participants to later adjust their views in a consensus-building process.

Page 11, Interpretation. Friends of Kennecott strongly recommends including the three opening paragraphs from the Kennecott Interpretive Plan's Interpretive Concept Summary, starting with "Kennecott was born, died, and reborn..." This well-written summary elegantly encompasses many of the important concepts touted by Kennecott advocates for many years.

Page 12. To fully capture the subject matter, we recommend expanding the title of Section 5 to Covenants and the Architectural Control Committee.

Page 30, Transportation/Access. The first paragraph says, "The park will hold a *public meeting* in summer 2012 to discuss the arrival and orientation of visitors to Kennecott." As another example of our general comment about public engagement, a facilitated workshop would be more productive in this instance than a normal "public meeting."

Page 32, Parking bullets. To improve implementation of the existing intent, we suggest the following modifications of the bullet addressing employee use of vehicles:

In support of the NPS commitment to reduce vehicular traffic in the NHL, ~~contracted~~ NPS employees and contractors will be discouraged from driving ~~their~~ NPS or personal vehicles while performing work duties for the NPS, including while taking breaks, and as As much as possible, ~~limit traffic from~~ construction equipment and vehicles ~~by leaving them~~ should be left onsite and not used as commuter or personal transportation.

Page 37, Power Generation. We request the following expansion of the second sentence: "The plan and subsequent design will take into account expansion of the system, minimizing impacts such as noise and light pollution, and use of alternate energy sources of power generation including hydro and solar power at Kennecott NHL." In addition to noise, we anticipate that late summer light pollution may also become an issue in the future if it is not addressed up front now.

Summary and Conclusion

Friends of Kennecott appreciates the opportunity to provide these comments and looks forward to reviewing the complete environmental assessment and alternatives in 2012. To assist with this review, we have a final suggestion. The proposed action includes a number of step-down plans, NPS commitments, additional public involvement opportunities, and other anticipated actions following adoption of the revised plan. To help the public and the NPS keep track of these anticipated actions, we recommend inclusion of a summary list, perhaps in the Appendix. Such a list would be invaluable "index" for current and future managers, as well as members of the public, and will help keep the plan alive and not forgotten.

Sincerely,



Ben Shaine
President