Chapter 16

16. ENFORCEMENT

Many aspects of natural resources management require effective enforcement if they are to be successful. Such features as harvest controls, protection of sensitive areas, pollution prevention, hunting and fishing recreation, nongame protection, and others are dependent upon effective law enforcement.

16-1 Objectives

Military Readiness

- Maintain quality of training lands through damage minimization

Stewardship

- Provide professional enforcement of natural resources related laws
- Enforce laws and regulations pertaining to implementation of the natural resources program at Fort Wainwright

Quality of Life

- Provide high quality opportunities for hunting and fishing

Compliance

- Protect sensitive species and wetlands
- Ensure Fort Wainwright's natural resources program is consistent with the protection of cultural and historic resources
- Resolve the trespass cabin issue

Integration

- Use enforcement personnel to enhance the overall natural resources program

16-2 Enforcement Program

The Commander, Arctic Law Enforcement Command Provost Marshal, is the USARAK Game Warden. The Commander is responsible for coordination and supervision of fish and wildlife law enforcement on all Army lands in Alaska. The Provost Marshal at Fort Wainwright appoints military police personnel to serve as game wardens. This system of fish and wildlife enforcement has been in place since establishment of the installation.

Fort Wainwright's fish and wildlife enforcement has concurrent jurisdiction. It can be performed by officers with federal or state commissions. Enforcement is a joint responsibility of USARAK and the Alaska State Troopers. Citations written by USARAK officers are adjudicated by the Federal Magistrat, unless they are military personnel who violate only post regulations. In these cases, citations are adjudicated by military commanders. Trooper-issued citations use the state system for adjudication.

Military Police game wardens on Fort Wainwright also have responsibilities directly tied to outdoor recreation; specifically the issuance of hunting, trapping, and fishing permits. These duties are included in Section 17-2b(3).

16-2a Hunting, Trapping, and Fishing Enforcement

Project Description. Enforce hunting, trapping, and fishing laws and regulations.

Project Justification. The Sikes Act requires enforcement of natural resources laws on military installations. Effective law enforcement is critical to natural resources conservation and the continuance of hunting, trapping, and fishing programs on a sustained basis.

Project Prescription. Military Police at Fort Wainwright emphasize enforcement in the cantonment area. Four military police are authorized and assigned game warden duties on Fort Wainwright. They are augmented by up to 25 additional personnel during operation of check stations and enforcement camps during fall hunting seasons. In 1995, this assistance from other Military Police personnel was reduced, and effects were noticeable in terms of enforcement during the hunting season.

Most time is spent patrolling the installation, but wardens are also tasked with issuing hunting, fishing, and trapper permits, ORV passes, bear-baiter and trapper registration, and providing safety orientation briefings. Section 17-2b(3) describes game warden duties associated with the management of hunting, fishing, and trapping.

Game wardens generally work in two-man teams and work fluctuating hours. Game wardens are equipped with five all-terrain vehicles, three snowmachines, one river boat, one airboat, and one four-wheel drive truck for patrol.

Emphasis will be placed on bear bait station enforcement over the next few years. Bear bait stands will be visited during and after the season to ensure state compliance, HTF compliance, and clean-up. This will be a combined LEC-Natural Resources project. The following schedule will be used:

- April 1 - Prepare harvest reports
- April 15- June 30 - Patrol bait stands and build database
- July 30 - Visit bait stands for clean-up review
- August 15 - Spring bear harvest report completed

Natural resources personnel meet many hunters, trappers, and anglers while completing their jobs. LEC wardens will work with these personnel to ensure they have accurate information of fish and game regulations to be given to recreationists.

There are some problems with military personnel hunting off-post with resident licenses for which they are not authorized. Fort Wainwright game wardens will continue to provide residency information to the Alaska State Troopers when requested.

USARAK Regulation 420-6 is out of date and often inconsistent with USARAK Regulation 190-13. By 1999, the Natural Resources Branch will revise 420-

6 to avoid this inconsistency, which can cause enforcement problems.

16-2b Trespass Enforcement

Project Description. Minimize trespass to Fort Wainwright.

Project Justification. The most common infraction is illegal entry of the installation, which is often the precursor to illegal range activities. Most illegal activities either directly or indirectly affect natural resources. Since trespass is often the first step to most illegal range activity, its reduction depends on a reduction in trespassing.

Much, if not most, trespass is associated with off-road vehicle (ORV) activity. Non-military ORV activity is illegal on most of the installation. Exceptions include snowmobiling on established trails and in areas designated for snowmobiles.

Project Prescription. Crossing the installation boundary or the internal boundary of an off-limits area without approval constitutes trespass. Lack of boundary markers contributes to this problem. Little of the installation boundary is fenced or marked with signs. Trespass is often premeditated. Marking the boundary would reduce accidental trespass, but the effect on premeditated trespass would be minimal. Boundary marking can only be effective in concert with enforcement efforts associated with premeditated trespass.

Trespass is most serious in Bear Creek and MacDonald Creek portions of the Alpha Impact Area on TFTA. Most trespass into these areas occurs via airboats. All but the buffer zone around the edge of Alpha Impact Area is off-limits due to unexploded ordnance. However, since the area has high quality game habitat, especially for moose, it is used for illegal hunting. The ADF&G would like the Army to open more of this area to legal hunting, but concern over public safety and Army liability is such that USARAK is unlikely to open more acreage.

Illegal ORV activity occurs to some degree along most of the installation boundary but is concentrated in the Main Post area. The area south of the Chena River is off-limits to ORVs, but violations of this regulation occur. The golf course, in particular, is used by snowmachiners.

A project is being considered to develop informational brochures to explain hazards associated with impact areas on Fort Wainwright. In addition, signage could reduce accidental entry into impact areas. USARAK will examine boundaries of impact areas and place additional signs where needed.

16-2c Trespass Structures

Trespass structures exist on Fort Wainwright and were constructed without approval from the federal government. Generally, structures are built for use as base camps for hunting and trapping. In the case of Fort Wainwright, trespass structures are found primarily in TFTA, but some occur on YTA.

The controversial nature of the trespass structure issue was identified in a 1986 document,[13] which stated "*This issue, regardless of how well it is handled, is likely to generate high controversy among the local Fairbanks public and possibly statewide. Although some complaints will be opposed to the cabins and encroachment structures, most will come down strongly in favor of them and against any control measures enforced by the military*." It further stated, "*Fort Wainwright will receive the brunt of the public controversy over this issue. If not handled properly, the US Army could potentially lose control over the land at each encroachment site, thereby adversely affecting our ability to perform our military mission.*"

A February 1996 survey[14] indicated approximately 30 active trespass structures on Tanana Flats and 49 sites showing human activity, including camp sites, tent frames, and abandoned cabins, many with extensive trash or other solid wastes. Fourteen active cabins were located within the floating mat wetlands that are accessed by unregulated airboats. These sites provide "base camps" for a network of airboat trails that is expanding south and west of Clear Creek Butte. The report states that Blair Lakes cabins are

[13] Disposition Form, 22 Dec 1986, *Encroachment Policy & Notice*, to Deputy Garrison Commander from W.F. Lorkowski, Acting DEH, Fort Wainwright.

[14] Memorandum For Record: 12 Feb 96, T*anana Flats Trespass Cabin Survey*, by Walt Van Den Heuvel, Natural Resources, Fort Wainwright.

accessed by fixed-wing aircraft and All-Terrain Vehicles (ATVs) using the winter trail. It also noted impact area trespass by moose hunters. This memorandum ties the airboat, impact area trespass, and trespass cabin issues and their combined potential impacts on wetland hydrology, trumpeter swans, and other waterfowl nesting together. The memorandum concludes, *"The Army's desire to maintain the integrity of the installation boundaries dictate that a plan of action be formulated to resolve this issue*."

Project Description. Eliminate trespass structures from Fort Wainwright.

Project Justification. Problems with trespass structures on Fort Wainwright were identified as early as 1982[15] . The Post Judge Advocate[16] concluded that, "*... the present individuals have no right to construct the cabins. Moreover, paragraph 2-11, AR 405-80 clearly sets out the procedures to be followed in the event of an unauthorized use. The command should take immediate action to discontinue use of the land and obtain compensation for its use to date. If the individuals can be located the command should request them to vacate the land. If efforts are not successful the matter should be referred to the division district engineer for further action*." This action resulted in a letter being sent to the builder of a trespass cabin on TFTA.

In 1985, a comprehensive trespass structure survey[17] indicated 18 active or semi-active cabin sites on TFTA, two semi-active cabin sites on YTA, and six trespass structures on Main Post with the possibility of up to a dozen. The report[18] specified concerns regarding unauthorized structures. These are listed below.

- Cabins cause interference with military training missions
- Cabins are "incompatible" land uses
- In the past, post commanders have allowed cabins to remain on Army lands after declining to have them removed
- Persons building cabins deny the rest of the public authorized uses of those parcels of land
- The Army has uncertain responsibilities to protect cabins from wildfires, even if it is a "let-burn" fire
- The Army's liability in the event of a person getting hurt in a cabin is uncertain
- Once a precedent is set allowing cabins to be built on Army lands, it is difficult to change

Project Prescription. In 1987 it was stated[19] that structures could be important to trapper "survival", and it was noted that it was not in the Army's best interest to "anger" these trappers. This action resulted in an Encroachment Notice being posted on trespass structures with the following statements:

- These structures are negative to the military mission and protection of natural resources, and future action may be taken to reduce or eliminate this conflict by destroying or moving encroachment structures.
- Unauthorized improvements on Army-controlled lands become the property of the Army. The builder may remove such improvements within six months, with prior approval of the Garrison Commander.
- Until the Army decides to take action against these improvements, they may remain at the builders' and users' risk if permission is obtained to enter Fort Wainwright. Cabins remain open to the public for temporary recreational purposes on a first-come, first-served basis; the Army assumes no responsibility for loss or damage of

[15] Memorandum for Record: 13 Sep 82, *Illegal Cabin Building on FWA*, by William Quirk, Chief, Natural Resources Branch, Fort Wainwright.

[16] Memorandum for Record: 5 Oct 82, *Construction of Privately Owned Cabins on Fort Wainwright*, by MAJ Sam W. Shelton III, Post Judge Advocate Fort Wainwright.

[17] Memorandum for Record: Sep 1985, *Preliminary Report - Cabin Survey*, by Junior D. Kerns, Fish and Wildlife Biologist, Fort Wainwright.

[18] *Unauthorized Cabins on Army Lands*, undated, by Patricia Powell and Junior Kerns, Fort Wainwright.

[19] Disposition Form, 26 Jan 87, *Encroachment Policy Approval*, to Garrison Commander from Alexander Johnston III, Director of Engineering and Housing, Fort Wainwright.

these structures or their contents; and no adverse possession rights accrue against the government because of the continued existence of the improvements.

The *YTA Resource Management Plan* (BLM and U.S. Army, 1994) proposes that only the federal government and private developers authorized by the government may erect or maintain structures on YTA. All unauthorized use of the land or resources will be investigated and either permitted or stopped. All unauthorized structures are subject to possession by the government following proper notice.

In 1998 USARAK took action to begin the process of removing trespass structures. Public announcements were made whereby owners had until October 1, 1998 to register their cabins. Registered cabin owners have two years to remove their cabins. After October 1, 1998, USARAK can remove unregistered cabins and their possessions. This course of action will be pursued until all trespass structures are removed from Fort Wainwright.

16-2d Personnel and Training

Project Description. Provide adequate personnel and training for natural resources law enforcement programs on Fort Wainwright.

Project Justification. AR 200-3 and the Sikes Act require effective natural resources law enforcement on military installations. They require enforcement be closely coordinated with the natural resources organization and that it be accomplished by professionally trained (game warden) personnel.

A generally recognized requirement exists for a 40-hour-minimum annual refresher training for enforcement officers. Any less training opens the employer to liability risks in the event of legally debatable officer actions.

Project Prescription. Alaska State Troopers provide training for Military Police (MP) game wardens on Fort Wainwright. In 1995, all game wardens from Fort Wainwright attended a three-day, Title 16 training session in Anchorage. Wardens must qualify with assigned weapons regularly. This occurs on Fort Wainwright in conjunction with their normal MP training.

The National Military Fish and Wildlife Association offers annual training for experienced wardens. This one-week training uses highly qualified instructors, many of whom have national reputations. The course is open to all of DOD and is held on various military installations. This is the most commonly used course by military installations for refresher training. USARAK regularly sends Fort Richardson wardens to this course. During 1998-2002, USARAK will use this course to improve training for Fort Wainwright wardens.

One of the biggest obstacles to effective long-term natural resources enforcement on Fort Wainwright is a lack of personnel continuity, a direct result of 100% dependence on short-term-assigned Military Police to game warden positions. USARAK is investigating the possibility of hiring a full-time civilian game warden to coordinate natural resources enforcement and work with relatively inexperienced military wardens to improve overall effectiveness of the program. Options being considered include funding from environmental sources and the sharing of this position at both Fort Wainwright and Fort Greely. If environmental funding is involved, the use of a Conservation Officer position is very advantageous. Under this concept, the civilian officer would also be trained to perform certain natural resources management tasks concurrently with enforcement tasks. This has proven very successful in other states and on many military installations.