

# STATE OF ALASKA

**SEAN PARNELL, Governor**

## **ANILCA IMPLEMENTATION PROGRAM Office of Project Management and Permitting**

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September 18, 2009

Lee Benson, Yakutat District Ranger  
Tongass National Forest  
P.O. Box 327  
Yakutat, AK 99589

Dear Mr. Benson:

The State of Alaska reviewed the Access and Travel Management (ATM) Environmental Assessment (EA) for the Yakutat Ranger District. The following consolidated state agency comments were compiled by the State's Alaska National Interest Lands Conservation Act (ANILCA) Implementation Program and cover issues relative to ANILCA and other state interests. Any correspondence or response pursuant to the Coastal Zone Management Act and the Alaska Coastal Management Program is provided separately by the Division of Coastal and Ocean Management.

We appreciate the ATM/EA explains the relationship between the Forest Service Travel Management Rule and access provisions under ANILCA Section 811, and includes a comprehensive table that provides detailed information regarding the various routes, conditions and uses, including subsistence. Taken as a whole, the EA appears to provide the public with sufficient information to assist the District with this important decision regarding access to subsistence resources and other uses, as well as provide a substantive accounting of proposed closures pursuant to ANILCA, Section 811(b).

### **SECTION 810 ANALYSIS**

As written, the basis for the finding of no "*significant possibility of a significant restriction*" is premised, in part, on the statement that "*The alternatives in this analysis would not modify access to subsistence resources located on NFS lands.*" Given that roads used to access subsistence resources are proposed for closure in the action alternatives, this statement appears incorrect, or at best confusing. While it may not change the final conclusion, we request the final decision document include a discussion that more directly addresses the reduction of motorized access on subsistence use.

## **FISH AND WILDLIFE MANAGEMENT**

The location and density of roads, coupled with use levels, has the potential to affect fish and wildlife. Access can be a primary factor in regard to anthropomorphic impacts to fish and wildlife populations. Current harvest levels in Game Management Unit 5 are within management prescriptions but future adjustments to harvest levels may be necessary depending on use patterns. The State of Alaska would make any necessary adjustments through the state regulatory process, as the State retains responsibility for the sustainability of fish and wildlife on all lands in Alaska. Following implementation of this ATM, we expect that any new road closures that solely address fish and wildlife concerns will be considered in consultation with the Alaska Department of Fish and Game (ADF&G).

## **GAME RETRIEVAL**

We appreciate the District's intent to allow limited game retrieval; however, we are concerned the proposed retrieval provision may create situations where hunters are unable to fully comply with state laws. Under the proposed action licensed hunters would be allowed to operate off-highway vehicles (OHVs) off designated roads, trails, and routes to retrieve legally harvested moose within 24 hours of take. However, if hunters would need to cross an anadromous fish stream with an OHV to retrieve moose, they must possess a valid Fish Habitat Permit, which requires up to a 30-day review period. It is unclear whether the District expects hunters to take moose in such a way that would not require an anadromous fish stream crossing or that hunters will seek Fish Habitat Permits at least 30 days in advance of the hunt.

We request the District further collaborate with ADF&G following the publication of the motor vehicle use map (MVUM) to develop a workable solution to this potential conflict. We are committed to working with the District to develop a solution that meets the District's and hunter's needs while maintaining fish and wildlife habitat.

Additionally, page 3-44 states "...the area of off-road travel is limited to moose hunting seasons (approximately 45 days)..." Although these dates appear to correlate with the joint State-Federal registration hunt, there are multiple hunts ranging from September through February. Since the potential impacts to fish habitat change based on time of year, we recommend also working closely with ADF&G to establish a timeframe in which moose retrieval will be allowed.

Please contact Andrew Levi at (907) 267-2242 to assist in scheduling a meeting for further discussion on these issues.

## **FISH PASSAGE AND FISH HABITAT**

We support the District's efforts to address impacts to fish passage and fish habitat through the implementation of the ATM Plan. We agree that closing unnecessary roads (especially sub-grade roads) and removing crossing structures – as proposed in all action

alternatives – would improve natural drainage patterns and fish passage compared to the existing condition.

The Division of Habitat will work with District staff to reach concurrence, pursuant to MOU 04MU-1110001-094, on all instream activities associated with implementing the ATM Plan and the development of the MVUM, including but not limited to culvert/bridge removal, replacement, or maintenance, vehicle crossings, low water fords on open OHV routes, and bank stabilization.

## **PAGE-SPECIFIC COMMENTS**

**Page 2-4, Alternative 3:** If this alternative is chosen, we recommend developing an allowance, similar to the State’s methods and means exemptions, to allow for game retrieval by those that are limited in their mobility

**Page 2-11, Table 2-1:** This table appears to have an error in the notation for the “*Decommissioned Temporary Road*” category. This category received notation “2,” which notes that the miles of road associated with this category were added to the road system inventory in Alternatives 2, 3, and 4. This is not the case. Notation “3” appears to be the correct notation for this category; “...closed as part of the area closure.”

**Page 3-46, first full paragraph:** This paragraph states, in part, that the mitigations to alleviate impacts from OHVs rely on “*the willingness of the District Ranger to close areas being damaged*” and “*diligent law enforcement.*” We recognize the inherent challenges with enforcement and, therefore, encourage the District to explore various methods for educating OHV users of the potential resource damage and consequences for not adhering to the MVUM and the provisions outlined in the EA. A statement in the final decision notice by the District Ranger regarding his intent to close areas being damaged could be an effective first step.

Thank you for this opportunity to comment. Please contact me at (907) 269-7529 if you have any questions.

Sincerely,



Susan E. Magee  
ANILCA Project Coordinator

cc: Sally Gibert, ANILCA Program Coordinator