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OFFICE OF MANAGEMENT AND BUDGET  
DIVISION OF GOVERNMENTAL COORDINATION

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March 17, 1994

Helen M. Hankins  
Kobuk District Manager  
Bureau of Land Management  
1150 University Avenue  
Fairbanks, Alaska 99709-3844

Dear Ms. Hankins:

The State of Alaska appreciates the opportunity to provide scoping comments on the Bureau of Land Management's (BLM) Squirrel River Wild and Scenic River Study and Environmental Impact Statement (EIS). This letter represents the consolidated comments of the State's resource agencies. The issues identified below should be addressed in the EIS process.

As a starting point, BLM should review earlier planning and studies conducted for the Squirrel River in the early 1980's. State concerns raised at that time remain the same and should be considered in the EIS (correspondence attached). The following comments supplement previous correspondence.

State Ownership of Waters and Navigable Waterways

The EIS must recognize that the State owns the watercolumn of all waterways and the land beneath the navigable sections of the Squirrel River and its tributaries. The State must be a partner in land management decisions for this state land. A copy of the Department of Natural Resources policies for shorelands adjacent to non-state land is attached. To assist you, we are attaching some generic language which addresses State ownership of shorelands and watercolumns for insertion in the plan.

State Land Selections

The State has selected over 160,000 acres in the Squirrel River drainage. This land was selected for future access, mineral development, and for possible borough land entitlements. The selections for mineral purposes are primarily in the north and east portions of the Squirrel River watershed, outside the Wild and Scenic River study area. The EIS must consider the impact of possible state ownership of land in the area.

The land selected for an access corridor is to retain the option for future development of transportation if and when it is necessary. A future transportation corridor through this area would be part of a corridor linking mineral-rich lands in Northwest Alaska with the Alaska Railroad and state highway network. Such a corridor may be critical to the state's economic future. The EIS should consider the impact of a Wild and Scenic River designation on future access.

#### Water Rights

The study/EIS should recognize the State's adjudication process concerning water rights. Language for insertion in the plan is attached.

#### Access and Transportation

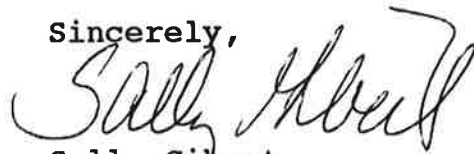
Consistent with previous correspondence, the study/EIS should thoroughly address access and transportation issues, including potential utility corridors, access to inholdings, and access for public use (e.g. hunting, trapping, fishing, subsistence). In addition, if the study/EIS will encompass ANCSA Section 17(b) easements, the document should address the State's role regarding these easements. Language for insertion in the plan is attached. The document should also list all possible RS 2477 rights-of-way that have been identified to date, and address how proposed actions may affect, or be affected by, these claims.

#### Subsistence

The subsistence analysis should recognize that one of the sometimes unintended effects of Wild and Scenic River studies is increased recreational use of the area stemming from heightened publicity. For example, local residents may experience impacts from increased air access for recreation which can displace use of seasonal hunting camps and/or affect caribou migrations. The study/EIS must consider the effects of the various alternatives on local subsistence use patterns.

Thank you for the opportunity to provide these comments. If you have any questions, please feel free to call this office.

Sincerely,



Sally Gilbert  
State CSU Coordinator

Attachments

cc:

Harry Noah, Commissioner, Department of Natural Resources

Carl Rosier, Commissioner, Department of Fish and Game

John Sandor, Commissioner, Department of Environmental  
Conservation

Bruce Campbell, Commissioner, Department of Transportation and  
Public Facilities

Richard Burton, Commissioner, Department of Public Safety

John Katz, Governor's Office, Washington, D.C.

## SHORELANDS and WATERCOLUMNS

*Please include the following language in the study/EIS:*

The State of Alaska owns all watercolumns and the land under navigable waterways in Alaska. The Submerged Lands Act of 1953, the Alaska Statehood Act of 1958, and the Alaska State Constitution establish State ownership of watercolumns (actual water that is in a lake or river), and shorelands (the beds of navigable rivers). Shorelands adjacent to or within ANCSA corporation lands are also in state ownership and subject to state management.

The courts have defined navigable waters as those used or susceptible to use for travel, trade, and commerce at the time of statehood. In the absence of more specific guidance, there are questions about the ownership of some small waterbodies in Alaska.

The Bureau of Land Management and the State have agreed to work cooperatively to ensure that existing and future activities occurring on these lands and waters are compatible with the purposes for which the State was given ownership of shorelands and watercolumns.

There are numerous laws, regulations, and policies already in place that set the framework for management of state lands and waters within federal reserves. What applies to federal land does not necessarily apply to state land and vice versa.

The Alaska State Constitution provides guidance to the State concerning management of state land and waters. Section 14 in Title VIII of the Alaska State Constitution says: "Free access to the navigable or public waters of the state . . . shall not be denied any citizen of the United States or resident of the state, except that the legislature may by general law regulate and limit such access for other beneficial use or public purposes."

## WATER RIGHTS

*Please include the following language in the study/EIS:*

Federal reserved water rights are created when federal lands are withdrawn from entry for federal use. They are created for the minimum amount of water reasonably necessary to satisfy both existing and reasonably foreseeable future uses of water for the primary purposes for which the land is withdrawn. The priority date is the date the land is withdrawn for those primary purposes.

Federal reserved water rights in Alaska can be claimed and adjudicated in basin-wide adjudications in conformance with the McCarran Amendment under state law, AS 46.15.165-169 and 11 AAC 93.400-440, either administratively or judicially. Alternatively, federal water rights may be applied for and granted under state law for either out-of-stream or instream water rights. In any case, water claimed or requested must be quantified.

BLM will work cooperatively with the State of Alaska to inventory and quantify its federal water rights under state law. Water resources of the Squirrel River will be managed to maintain the primary purposes for which the river was withdrawn.

In addition to federal reserved water rights, the plan should note that a federal agency can apply for water rights through the existing state water rights system. Use of the State's application system will, in many cases, provide BLM with the senior water rights and save both the State and federal government the cost of a federal reserved water right adjudication. The issuance of state water rights will not preclude BLM from applying for federal reserved water rights in the future if the need arises. The Alaska Water Use Act also allows public agencies to apply for reservations of water for instream uses including fisheries, recreation, and water quality purposes.

## SECTION 17(b) EASEMENTS AND NONEXCLUSIVE USE EASEMENTS

*Please include the following language in the study/EIS:*

Sites and linear access easements may be reserved on Native corporation lands that are within or adjoin the Squirrel River study area, as authorized by Section 17(b) of the Alaska Native Claims Settlement Act. BLM will be responsible for management of the public access easements inside the study area and for those assigned to BLM outside the unit. The purpose of 17(b) easements is to provide access to public lands. The routes and location of these easements are identified on maps contained in the conveyance documents. The conveyance documents also specify the terms and conditions of use including periods and methods of public access.

BLM will work cooperatively with the affected Native corporations and other interested parties, including the State of Alaska, to develop a management strategy for easements. Management of these easements will be in accord with specific terms and conditions of the individual easement and applicable BLM regulations. As easements are reserved and BLM assumes management responsibilities for them, the locations, mileages, and acreages will be compiled and management strategies will be formulated. This information will be maintained at the BLM area office.

As authorized in the Department of the Interior Departmental Manual, Part 601 DM 4.3G, the physical location of an easement may be adjusted to rectify a usability problem, or to accommodate the surface and or subsurface landowner's development of the lands, if both BLM and the landowner agree to the relocation. Easements also may be expanded, if an acceptable alternate easement or benefit is offered by the landowner and the exchange would be in the public interest. An easement may be relinquished to the landowner if an alternative easement has been offered by the landowner or termination of the easement is required by law. Such actions would require a full land exchange procedure that meets applicable legal requirements.

BLM may also propose to place additional restrictions (to those authorized in the conveyance document) on the use of an easement, if existing uses are in conflict with the purposes of the refuge.

In all cases where a change is proposed in authorized uses or location from the original conveyance, BLM will give adequate public notice and opportunity to participate and comment to the affected Native corporation and other interested parties, including the State of Alaska. Service proposals for changing the terms and conditions of 17(b) easements will include justification for the proposed change, an evaluation of alternatives considered, if any, and an evaluation of potential impacts of the proposed action.

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET  
DIVISION OF GOVERNMENTAL COORDINATION

BILL SHEFFIELD, GOVERNOR

STATE CSU COORDINATOR  
2600 DENALI STREET, SUITE 700  
ANCHORAGE, ALASKA 99503-2798  
PHONE: (907) 274-1581

### OFFICE OF MANAGEMENT & BUDGET

January 11, 1985

FEB 25 1985

### GOVERNMENTAL COORDINATION

Mr. Roger Contor  
Regional Director  
National Park Service  
2525 Gambell St., Room 107  
Anchorage, AK 99503

STATE REGIONAL OFFICE  
ANCHORAGE, ALASKA

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Dear Dr. Contor:

The State has completed its review of the draft Environmental Impact Statements (EIS) and Wild and Scenic River (WSR) studies for the Squirrel and Lower Sheenjek Rivers. Although a number of our previous concerns have been addressed in these documents, we find that several significant State concerns remain. Based on these concerns, as noted below, we do not support the proposed Wild River designation on either of these two rivers.

#### Lower Sheenjek River

In reviewing correspondence that was sent to the National Park Service (NPS) by the State on April 2, 1982 and October 31, 1983, we find that the State has consistently asserted numerous concerns regarding WSR designation in general and has not supported a Wild River designation of the Lower Sheenjek River. Although we appreciate that this draft EIS addresses many of the questions previously raised, there remain several significant State concerns. These include the effects on the management of the State-owned river bed and the effects of designation on future expansion, improvements or maintenance of transportation systems.

We also reiterate our concern that additional attention drawn to the area will likely result in increased user conflict, eventually resulting in added regulations and restrictions for users of the area (potentially affecting a variety of public uses, including hunting and fishing). This concern has also been reflected in the majority of local public comments who prefer the "No Action" alternative as noted in the summary.

We note that while NPS acknowledges State jurisdiction over the appropriation and reservation of waters for all streams included within the WSR system, there is a need to make explicit that NPS will work with the State regarding water appropriations. The plan should specifically identify the proposed policies and a work plan for securing such instream and out-of-stream reservations necessary to promote the primary purposes of the system. We recommend that the following statement be included in the document:

"The Federal administering agency will work cooperatively with the State of Alaska, Department of Natural Resources, Division of Land and Water Management, to quantify and apply for reservations of minimum flows to support the values for which the river area is designated."

On page 19 of the EIS, the NPS states that land use in the area is "occasional and intermittent." We request that this language be clarified due to the different connotations for subsistence versus other land uses; "occasional and intermittent" uses of an area for subsistence purposes should not be inferred to mean that an area is relatively less important than others. It may be very important one year or part of the year and less the next depending upon a variety of factors. The NPS should be aware of the following additional references which address relevant information on land uses in the area by local residents to better evaluate contemporary resource use patterns in and near the river corridor. Subsistence Land Use in Upper Yukon-Porcupine Communities by Richard Caulfield (ADF&G Division of Subsistence Technical Paper No. 16, June 1983) and Hunters of the Northern Forest by Richard K. Nelson (University of Chicago Press, 1973). We note that the Caulfield report was recommended to the NPS as a resource reference in a June 14, 1984 response from Terry Haynes to Roger Contor on a Section 810 Evaluation. The NPS was also alerted to the Nelson book and several other references in an April 2, 1982 letter from Sterling Eide to Jim Morris, which referred to the historical importance of the lower Sheenjek River to Arctic Village residents.

The Cultural Values section of this draft EIS states that there are no sites in the corridor eligible for the National Register "...possibly due to the absence of significant survey (pg. 28)." It should, in reality, state that the absence of such eligible sites is probably and/or most likely the result of insufficient survey. This suggestion constitutes a substantial shift in meaning and better reflects the current state of knowledge about the study area. This revision would be more consistent with some statements made in the section such as:

1. "The Sheenjek River served as a major north-south route for travel and trade between Athabaskans and Eskimos."



- 09 2. "Some of the highlights...the establishment of a major trading post at Fort Yukon...the growth of the fur trade until Fort Yukon became the company's most valuable post west of the Rock Mountains...; gold prospecting in the late 1800's; and the temporary resurgence of fur trapping in the area in the 1920's.

These statements imply that the area was quite important to both the prehistoric and historic component. It is, therefore, probable that the lack of sites known to be eligible for the National Register is caused by the lack of sufficient information. The conclusion stated on page 39 that "no appreciable change in the condition of sites would be expected" is, perhaps, a little premature and too broad given the lack of data on sites in the study area. Another statement made on page 39 also poses some questions. What is the supporting documentation for the statement "Surviving archaeological sites are probably far enough off the river...? One would expect sites associated with the gold mining exploration as well as with the fur trade to be found both on and off the river. Sites associated with the Sheenjek River as a major north-south trade and travel route would be expected to be found on the river as well.

#### Squirrel River

We appreciate that many of the State's previous concerns have been addressed. However, some concerns noted above for Lower Sheenjek also apply to the Squirrel. In particular, we are concerned about the lack of consideration for increased user conflicts that will likely occur with designation and with the accompanying additional restrictions on potential transportation corridor development which a Wild River designation would impose.

The Environmental Consequences section (p. 56) of the draft EIS addresses "Impact on Future Development of Transportation or Utility Corridors" and identifies the possibility of transportation access to the Ambler Mining District via a crossing of the lower Squirrel River. Designation would result in restriction of a transportation and/or utility crossing unless no feasible and prudent alternative exists. There are federal lands immediately north and south of the Squirrel River study corridor (i.e. Noatak National Preserve and Selawik National Wildlife Refuge), not referenced in the discussion, that already restrict transportation access. A crossing of the lower Squirrel River is, therefore, probable to provide access to the Ambler mining district. This needs to be so stated in the document.

The document also needs to be expanded to address instream and out-of-stream water reservations. (See comments for Lower Sheenjek). We also request that the document acknowledge that there is a lack of agreement about the navigability status of the Squirrel River. The State believes that the river is

January 11, 1984 3

navigable under federal criteria to North Fork, rather than only to the Omar River as stated in the study. Under State criteria, the State believes that all but 6 to 10 miles of the river are navigable, since motorboats go above the Omar River to Native allotments.

The map depicting "Potential Influences" (p. 44) is misleading in that it does not clearly show which portion of the Squirrel River is likely to be affected by a transportation corridor. It is impossible to get an idea from this map how the proposed corridor might relate to the preferred alternative proposed by the National Park Service.

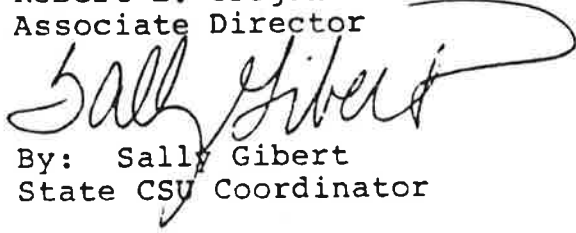
The land ownership map (p. 27) should show the exterior boundaries of the conservation system units.

The Division of Governmental Coordination has also completed the coastal consistency review of these draft EIS' and wild and scenic river studies. Based on our review, the Division agrees with the NPS' determination that the proposals in these documents are consistent with the Alaska Coastal Management Program.

Thank you for the opportunity to review these documents. If we can be of any assistance in clarifying these comments, please feel free to call this office.

Sincerely,

Robert L. Grogan  
Associate Director



By: Sally Gibert  
State CSU Coordinator

cc: M. Frankel, ALUC  
R. McCoy, ALUC  
R. Davidge, DOI  
J. Leask, AFN  
S. Leaphart, CACFA  
State CSU Contacts

BILL SHEFFIELD, GOVERNOR

CSU Planning Office  
333 Raspberry Road  
Anchorage, Alaska 99502

29 March 1983

Phone: 267-2215  
File: CSU-NPS-Squirrel

Jim Morris  
National Park Service  
540 West Fifth Avenue  
Anchorage, AK 99501

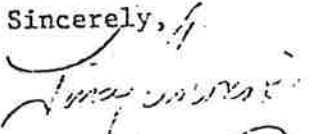
Dear Jim:

Our letter of 25 February 1983, providing comments on the Squirrel Wild and Scenic River Public Information brochure, included a citation error. Please correct the comments attributed to Alaska Department of Natural Resources, page 2, to read as follows:

"NPS should seek clarification on the issue of land status, including navigability, of the Squirrel River prior to developing any plans for the river. NPS is also reminded that it should apply for an instream flow reservation to quantify its federal reserve water rights."

All other comments remain unchanged. Thank you for your assistance.

Sincerely,

  
Tina Cunningham  
State CSU Assistant

cc: State CSU Contacts

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

State CSU Planning Office  
333 Raspberry Road  
Anchorage, Alaska 99502

Phone: 267-2215

File: CSU-NPS-Squirrel

25 February 1983

Jim Morris, Team Leader  
Squirrel River Wild and Scenic  
River Study Team  
National Park Service  
Alaska Regional Office  
540 West Fifth Avenue  
Anchorage, AK 99501

Dear Mr. Morris:

Thank you for the opportunity to comment on your Draft Squirrel River Wild and Scenic River (W&SR) Public Information Brochure. We have received the following comments on the brochure from our State CSU contacts:

Department of Transportation and Public Facilities (DOT/PF):

Section 1010 and Title XI of ANILCA mandate that mining potential and attendant route corridors be considered in areas that may be suitable for inclusion in any of the national conservation systems. DOT/PF strongly recommends that the identified access corridor from Ambler to the coast be recognized and remain open for consideration.

In recent years, there has been a growing interest in the establishment of a transportation corridor to provide access to the Ambler Mining District, where mineral deposits of world class size have been discovered. The Alaska Department of Transportation's Western and Arctic Alaska Transportation Study (WAATS), (May 1981) identified several route alternatives that would satisfy access requirements. Among the most promising alternatives identified is a corridor from Ambler area (upper Kobuk River) to a port site on the coast of the Chukchi Sea. This corridor with three mode options (road, railroad and slurry pipeline) remains one of the least costly avenues to get the minerals to market. Obviously, classifications of the Squirrel River as Wild and Scenic would have a severely negative affect on the development of the Ambler area resources.

Department of Natural Resources:

NPS should seek clarification on the issue of the land status of the Squirrel and other navigable rivers being studied for Wild and Scenic status prior to developing any plans for these rivers. NPS is also reminded that they are required to apply for instream flow or river permits prior to making developments in rivers.

Department of Fish and Game, Fisheries Rehabilitation, Enhancement and Development Division:

The river should not be recommended for inclusion in the W&SR system until such time as assurance can be made that future fisheries management and rehabilitation/enhancement activities will be permitted under enacted management guidelines. However, if compromise should be necessary, we recommend that only the upper Squirrel River (upstream of river Mile 40) be included in the W&SR system. This portion of the river is upstream of the location of all existing fisheries management facilities and of the identified potential rehabilitation/enhancement sites.

Department of Fish and Game, Habitat Division:

The public may find it difficult to comment on the proposed alternative actions without specific management intent (i.e. what activities would specifically be prohibited or permitted). Future drafts and the EIS should include such intentions to allow for more informed comments from reviewers.

Department of Fish and Game, Game Division: The wildlife resources of the study area are not unusual enough to make it eligible for addition to the National System. The Squirrel River is regionally significant due to its wildlife resources and public access, but wildlife values are not outstandingly remarkable when compared to other river systems in the Kotzebue Sound area.

Wildlife viewing opportunities and sport hunting should not be listed as characteristics which make the study area eligible for addition to the National Wild and Scenic River System.

Jim Morris

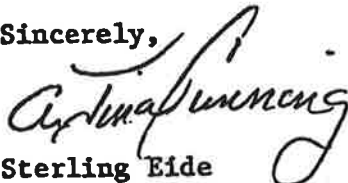
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25 February 1983

These comments do not represent a comprehensive State opinion on the status of the Squirrel River, but they should be of assistance in planning future alternatives. You should also be aware that BLM is starting a study on minerals and oil and gas leasing and settlement in the Squirrel River drainage. Information obtained from that study may be pertinent to your investigation (see attached letter).

We are looking forward to reviewing and providing assistance in your future planning of the Squirrel River. If we can be of any further assistance, give us a call.

Sincerely,



Sterling Eide  
State CSU Coordinator

by: Tina Cunning  
State CSU Assistant

Attachment

cc: State CSU Contacts

**CSU Distribution List  
Squirrel River Scoping  
March 17, 1994**

*Tina Cunning, Department of Fish & Game, Anchorage*

*Terry Haynes, Department of Fish & Game, Fairbanks*

*Priscilla Wohl, Department of Environmental Conservation, Anchorage*

*Joyce Beelman, Department of Environmental Conservation, Fairbanks*

*Alice Iliff, Department of Natural Resources, Anchorage*

*Norm Piispanen, Department of Transportation/Public Facilities, Fairbanks*

*Paul Rusanowski, Division of Governmental Coordination, Juneau*

*Mary Pignalberi, Tourism, Department of Commerce & Economic Development, Juneau*

*Dick Swainbank, Department of Commerce & Economic Development, Fairbanks*

*Stan Leaphart, CACFA, Fairbanks*