

STATE OF ALASKA

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August 24, 1994

Pete Griffin
Acting District Manager
Yakatat Ranger District
P.O. Box 327
Yakatat, AK 99689-0327

Dear Mr. Griffin:

The State of Alaska has reviewed the proposed Situk River Management Plan, dated June 30, 1994. This letter represents the consolidated comments of the State's resource agencies.

While this proposed plan presents some useful possibilities concerning management of the Situk River, the State cannot support it as a planning document. In particular, we strongly protest the failure of the Forest Service to formally coordinate with the State of Alaska and other organizations in preparation and review of the management plan.

STATE MANAGEMENT AUTHORITY

The plan does not indicate that shorelands and waters of the Situk River are state-owned. The proposal would regulate use of state shorelands (land beneath navigable waters) by: setting a carrying capacity for guide-outfitters on some river segments, allowing or prohibiting removal of log jams on some river segments, implementing bank stabilization measures if needed to protect water quality, and restricting motor boat access.

The Forest Service planning effort must recognize state ownership of the shorelands and Department of Natural Resources (DNR) management authority over use of the waters. *The Forest Service does not have authority to regulate uses of navigable waterbodies.* If the Forest Service desires restrictions on the use of state shorelands, the Forest Service and State need to engage in a cooperative river management plan. The DNR Division of Land is not currently funded for such an effort. Attached is a copy of the Director's Policy File 91-03 which explains the Division's current policies for management of shorelands within federal CSUs.

Also attached is a compilation of the Alaska Department of Natural Resource's (DNR) Yakataga Area Plan's resource information on the Situk River and developed land use designations, management intent, and guidelines for the state-owned shorelands¹ (see attached). The state's area plan emphasizes fish and wildlife habitat protection in the upper river, and places joint emphasis on habitat and harvest (primarily commercial, sport, and subsistence fishing) downstream from Nine-Mile Bridge to tidewater. Dispersed recreation is a designated use on both sections of the river.

The Yakataga Area Plan does not provide a carrying capacity determination for sport fishing/recreational use of the river or detailed access guidelines. DNR usually makes such determinations in subsequent river management planning or adjudication. However, the area plan's designations recognizes that human use and demands for access are higher on the lower river than the upper river, as does the Situk proposal.

PLANNING PROCESS

The Situk River Interim Management Plan, adopted in 1983, states:

The purpose of this document is to clarify current management direction and policies related to the Situk River. This was prepared in cooperation with the State of Alaska, Alaska Department of Fish and Game, and the City of Yakutat. Other interested groups, including the Yak-tat Kwaan, Sealaska, and the Southeast Alaska Conservation Council contributed to its preparation.... If the River is not designated [Wild and Scenic] by Congress, this interim management direction will be reevaluated to determine if additional direction is needed to address protection of the River and its associated environment and important management issues.

Subsequent to completion of the Interim Management Plan, an interagency cooperative agreement was entered into by the landowners and interest groups. The process used by the Forest Service to prepare the final management plan violates the cooperative agreement signed by the Forest Service on September 3, 1983. This cooperative agreement was also signed by the

¹The Division of Water provided the Yakataga planning staff with a preliminary finding of navigability for the Situk River from its source at Situk Lake to its outlet in the Gulf of Alaska (memo from Allison to Talbot, April 22, 1993). The Division of Water finding did not comment on the navigability of the Old Situk Creek tributary. The planning team therefore considered it non-navigable and did not address it in the draft Yakataga Area Plan. We did not ask for a determination on the West Fork of the Situk.

Governor of the State of Alaska and representatives for the City of Yakutat and Yak-Tat Kwaan, Inc to address implementation and revision of the Situk River interim management plan:

Any changes to the SITUK RIVER INTERIM MANAGEMENT PLAN will be undertaken by the Forest Service or State of Alaska, after 30 days' written notice, only after consultation with the signators to this agreement . . .

Instead of providing this formal notice and full consultation with the State of Alaska (specifically DNR, DFG, and this office) the Forest Service unilaterally engaged in studies to justify management decisions and prepared this plan without appropriate participation of all involved agencies.

Not only does this action violate the cooperative agreement but also contradicts provisions contained in the Environmental Impact Statement (EIS) for the Situk River. For example, the EIS (page 36) states:

If Congress fails to designate the Situk, the Interim Plan would be reviewed, with full public involvement and revised into a final management plan to be incorporated in TLMP [Tongass Land Management Plan]. . . . With revision [of the TLMP], the management objectives and the land allocations of the area would be re-evaluated and could be modified after careful analysis, full public involvement, and compliance with the Cooperative Management Agreement

The January 1986 Record of Decision for the EIS also stated "protection and management of river values can be achieved more appropriately through a cooperative effort by local, State and Federal agencies."

A recent Forest Service report, titled *Situk River Recreation Management Guidelines/Carrying Capacity Analyses*, stated "the Situk River Interim Management Plan will be evaluated in the camping year [1994] and finalized in cooperation with ADFG, the City of Yakutat and the Yak-Tat Kwaan." Although individual DFG staff were contacted for fisheries and use data, DFG was not approached for cooperative evaluation or preparation of this plan.

By unilaterally proceeding to develop a final management plan, which notably includes extensive changes to the Interim plan, the Forest Service has violated all of the prior cooperative management commitments for the Situk River.

SUBSISTENCE ISSUES

Although portions of the Situk proposal provide a good initial step for defining management issues, a more comprehensive

presentation of issues was provided in the interim plan. A significant oversight of the final plan is that it is not specific enough to ensure protection of subsistence uses of the Situk River watershed.

The importance of subsistence fisheries appears to be purposely downplayed in relation to other fisheries; i.e., state and federal management priorities should be retained by consistently listing "subsistence, commercial, and sport fisheries" instead of listing subsistence last. Interestingly, local DFG staff have noted this issue during informal reviews, only to have the Forest Service District Office re-edit the error back into subsequent versions. Had preparation of this plan been cooperatively conducted, this would have been rectified by appropriately recognizing subsistence uses throughout the preparation of the plan as well as in the final edits.

Major specific concerns include:

Page 3, paragraph 4. This paragraph expresses well some of the core issues and values associated with the Situk. The river itself (not just the archaeological sites) and the associated traditional subsistence patterns are cultural resources deserving high priority and protection in planning and management. Nowhere else in Southeast Alaska does one river contribute so much to the subsistence harvests and lifestyles of a community. Despite acknowledging as much, this plan does not appear to assign a sufficiently high priority to subsistence and cultural values. We recommend the Forest Service work cooperatively with the local fish and game advisory committee and Native organizations to develop more specific proposals for protecting and enhancing subsistence and other cultural resource values.

Page 4, Public Involvement. We are surprised not to see subsistence identified as a preliminary issue in the final plan, especially in view of the background information presented on page 3. We also request further information about the public process: What was the process? Who was consulted and when, and what responses were received? How was public input utilized?

Page 4, Developed Recreation Facilities. This section should explain how opposition to development has been factored into the Forest Service's decision to allow significant development of recreational facilities in the proposed action. What will be the effects of competition associated with improved and increased access to the Situk through these facilities?

Page 5, Log Jams. According to published sources, the removal of log jams on the Situk was a traditional part of the subsistence seasonal round. In view of this and the fact that unnecessary removal of debris may destroy fish habitat, we recommend that a joint state/Forest Service public input process be initiated

prior to removal of log jams.

Page 9, Minerals. As in the Yakataga Area Plan, DFG has recommended closure to mineral entry due to the potential negative impacts on subsistence associated with mineral development. Public interest in this issue is not reflected in the plan.

Pages 9-10, Outfitters/Guides. We suggest adding the following guideline: "Existing or proposed operations and activities must have no significant impact to subsistence uses of the river."

Pages 10, Subsistence. This section should be expanded, and the guidelines clarified. The emphasis on traditional activities and practices rather than on resources alone is commendable and reinforces the fact that subsistence is a way of life.

Page 10, Proposed Additional Management Direction. The section under subsistence states: "Traditional activities and practices authorized by ANILCA will be regulated and restricted only where it is determined that the effects of continued or expanded use is likely to result in the degradation and/or loss of the outstandingly remarkable fisheries, wildlife and recreational resources." ANILCA Section 816 allows temporary closure of an area to subsistence uses, following notice and public hearing, for reasons of public safety, administration or to assure the continued viability of a particular wildlife population. Non-subsistence use of fish and wildlife resources (and certainly other recreational activities) would first have to be restricted.

Page 10, Transportation. Access is a critical issue but the management guidelines presented are too vague. Any monitoring of ORV use to determine "damage to the area's resources" should be developed and conducted cooperatively with the State of Alaska, and such commitment should be included here. Specific criteria for determining "if resource damage occurs" should be developed and included in the plan so that subsequent closure orders are not dependent upon the variable philosophies of forest managers.

Page 11, Visual Resources. How is "natural appearance" being defined? To Tlingits, the "natural appearance" of the lower Situk River might include smokehouses and seasonal camps, which would be positively construed.

Pages 11-16, Proposed Management Direction. Subsistence has been omitted as a key issue in this section. To what extent is subsistence a part of the "primitive character" and "cultural values" of the river? What efforts will be made to enhance subsistence patterns? How is "carrying capacity" being defined, and what is the basis for such definition? If subsistence is the priority consumptive use, why are outfitter/guides allocated 50 percent of the theoretical carrying capacity?

We strongly urge the Forest Service to work with DFG to develop more specific management guidelines which maintain and enhance subsistence opportunities.

JET BOATS

The Interim plan currently permits two commercial (guided) jet boat operations on the river. The jet boats can ascend the river under power only once a day and must float downstream without power. Jet boats are currently prohibited only from August 1 through September 15, the coho salmon fishery. Private and administrative use of jet boats is not currently restricted.

In contrast, the plan proposes that all jet boat use, including private and administrative, be prohibited upstream of the DFG fish weir from April 1 through October 1, effectively the entire fishing season. Jet boats will be permitted in the lower river downstream from the weir except from August 15 through September 15. It is not clear how many commercial jet boat operations will be permitted in the future (or if the two current operators will be re-permitted).

Such restrictions must come from DNR as the state's manager of navigable waterways. In addition, more thorough involvement with DFG is needed regarding weir operation and monitoring of fishing effort and fish stocks. We urge the cooperative evaluation and documentation of resource problems associated with jet boat use before proposing restrictions to the State.

OUTBOARD MOTOR BOAT RESTRICTIONS

Commercial boat operators are currently restricted to use of motors with 15 horsepower or less. There is no horsepower restriction for privately operated boats. Motorboat use downstream of the DFG weir is currently unrestricted. This plan, however, proposes that all boats (commercial, private, and administrative) be restricted to down-river travel with short shaft engines of 15 horsepower or less between Nine Mile Bridge and the DFG weir from April 1 through October 1. Once again, such restriction of the use of a state navigable waterbody cannot be implemented by the Forest Service.

These proposed restrictions will significantly affect sport fishermen who traditionally stay in public use cabins or riverside camps for more than one day and use boats to access adjacent downstream and upstream fishing grounds. Also, the down-river restriction means that outboard motors are unnecessary and the middle river segment will probably become a drift-only boat fishery. The Forest Service needs to cooperatively evaluate data which justify these restrictions, as well as document resource damage or problems resulting from current outboard powered boat use before proposing restrictions to the State.

USE LIMITS: RECREATION OPPORTUNITY SPECTRUM

The plan proposes that existing and proposed outfitters and guides operations and activities be regulated according to pre-established "Recreation Opportunity Spectrum" (ROS) guidelines for each river segment. The ROS is an inventory/planning tool designed in part to determine the nature and adequacy of recreational opportunities and to establish recreational management objectives. The ROS standards and guidelines were apparently developed in the Tongass Land Management Plan (1979, amended in 1986). Appendix E in the Situk EIS attempts to explain the ROS concept, and the various ROS designations for various river segments are shown on Map 4 of the EIS. However, the Interim Management Plan omits any discussion of management application of the ROS classifications.

The ROS management guidelines are given for various "setting indicators" including visual quality, remoteness, access and social encounters. It appears the Forest Service has selected the social encounters standard to be the "tail that wags the dog" in setting and allocating recreational use limits on the Situk River. The plan proposes that outfitter/guide services will not exceed 50% of the established carrying capacity for the river. Carrying capacity is based on the selected number of social encounters under the designated ROS for each river segment:

The "Primitive" ROS standard established in the TLMP for the upper river segment is "less than 3 social encounters a day". The proposal indicates that this objective will be achieved if there are not more than 4 groups in the area at one time. Therefore outfitter/guides use may account for two groups a day. The upper river segment within 500 feet of the Nine Mile Bridge is assigned a "Roaded Natural" ROS which allows less than 20 social encounters a day during 80% of the primary use season, but the proposal doesn't provide maximum use limits for this area.

The "Semi-Primitive" ROS standard established for the Middle River segment authorizes less than 10 social encounters a day on the trails, roads and shorelines during 80% of the primary use season (June - August). This translates to a maximum of 10 boats on the river segment at a time, with outfitter/guides having no more than 5 boats per day. The same exception noted above applies to the area within 500 feet of the Nine Mile Bridge.

The "Roaded Natural" ROS classification for the lower river segment authorizes less than 20 social encounters a day. Thus outfitter/guides are authorized up to 10 groups daily.

The Forest Service needs to fully explain and justify the development of the ROS standards and their management application. The carrying capacity determinations undertaken to date are based on very subjective analysis of incomplete

information. A careful review of the TLMP is necessary to determine methodology used in establishing the ROS standards, especially with respect to social encounters, and to determine if that part of the TLMP received adequate public and agency participation to be adopted as part of the final Situk management plan.

Social encounter standards appear to emphasize boat travel and fails to consider extensive use of the shore by anglers in many areas. In addition, all boaters frequently stop and fish from shore while many shore-based anglers fish considerable distances from road access points.

The proposal in total will require an extensive program to monitor recreational uses and implement or enforce the restrictions. Such a monitoring program should be cooperatively evaluated and discussed for inclusion in the plan. Clearly the Forest Service will not be able to achieve the proposed carrying capacity use limitations by setting use limits only for outfitter/guides, so use limits should be considered for private operators. Implementation with the State of Alaska (as owner and manager of the navigable waterway and shorelands) will be necessary but is completely overlooked. How the plan will be implemented through state and federal regulation and enforcement is not detailed.

INCOMPLETE PLAN

The proposal describes only "additional management direction" effecting recreational uses of the river. The plan should include public involvement and discussion in the plan of current management policies so all management directions are included in the plan. The plan should also address current use guidelines, including special permit stipulations and regulations. The public cannot be expected to understand and evaluate the full effect that the proposed measures will have on recreational and traditional uses unless this information is included. In addition, the plan should include current information on: the status of Situk River fish stocks, annual fishing effort, harvest data, and annual boat use by commercial and private operators, among other key items involved in making informed decisions regarding use and resources.

PAGE-SPECIFIC COMMENTS

Page 3, Background, paragraph 1. Add resident rainbow trout to the species list.

Page 3, Background, paragraph 2. Change text to read "the three month commercial fishing season."

Page 3, last paragraph. There is no mention of the cooperative agreement which was signed to guide planning for this area, nor discussion of how NEPA requirements have been satisfied.

Pages 4-5, Public Involvement and Preliminary Issues. The discussion is vague and superficial, relying largely on old involvement and efforts by the Forest Service locally to contact the public. Conclusions are reached without presenting supporting evidence. For example:

- * No evidence is provided documenting effects of current level of commercial jet boat use.
- * No acknowledgement is given of DFG's need for jet boats to conduct management activities on the river.
- * The discussion of fish habitat improvements expresses a very one-sided concern, failing to recognize that habitats are also being created.
- * The discussion of land ownership needs to be expanded; e.g., where are the Native allotments? What access is potentially restricted?
- * The "motorized boat use" discussion states that "the Situk River is a small and shallow spawning stream." This is inaccurate and uninformative; e.g., small and shallow compared to what? We question the implication that there is insufficient deep water and no fish rearing.

Page 8, Proposed Management Direction. This section is too vague to be useful in making management decisions about particular uses in specific areas and does not illustrate that the plan will resolve the issues identified by the public.

Page 9, Minerals. Dredges of less than 4 inches in size are considered recreational. That is, they are not commercial operations, and are generally not operated financially to support those doing the mining. Under provisions of the Yakataga Area Plan (which is not mentioned or acknowledged in the plan), the DNR Division of Mining and DFG have agreed that the Situk River should be closed to mineral entry.

It is irresponsible to suggest that the general public, with no particular expertise or guidance, should be allowed to jeopardize subsistence and commercial fisheries or the world-class sport fishery that exists in the Situk River area.

Page 9, Outfitter/guide guidelines. The bullets at the bottom of the page are too vague to be meaningful. How can any of these broad, unmeasurable goals be accomplished, and how will the Service or the public know when they are met?

There is no explanation of how, specifically, the ecosystem will accommodate uses without "harm to the environment".

What are the ROS "settings"?

Page 10, Soil and Water. How will "stream bank erosion" be monitored? Are funds available? How and will there be sufficient funds and manpower to acquire answers to specific questions; e.g., how much erosion is too much erosion? Has the Service reviewed current results of related studies being conducted by other agencies?

Page 10. Under the discussion of management directions for LUD I (Wilderness) Areas, the plan incorrectly states that use of airplanes, motor boats, and snowmachines will be allowed if their use was previously established. The Region 10 Supplement to the Forest Service Manual (FSM 2300) "Recreation, Wilderness and Related Resource Management," states:

"Traditional activities, which are legal, shall be allowed to continue in wildernesses (sic) where such use has occurred, and no proof of pre-existing use will be required in order to use a snowmachine, motorboat, or airplane."

Page 11, Wildlife. How will habitat projects (which should be defined) be designed to "emulate natural conditions and appearance"?

Page 12, Outfitter Guide and Recreation sections. These sections should reference data to show what the desired maximum number of encounters are, what criteria are used, and how encounters will be counted. Taken as a group, there are also some apparent contradictions among the guidelines.

Page 12, Transportation. A bridge is needed to cross a tributary to Mountain Stream, about 1/2 mile above the Situk Lake Cabin in order to make the existing trail passable.

MISSING INFORMATION AND CONTEXT

A considerable amount of information is missing from the plan which should have been included for public background. For example, due to increasing recreational use, the Forest Service in March 1989 issued a moratorium on the issuance of new or expanded special use permits for outfitting and guiding on the Situk River. The intent of this moratorium was to hold recreational use to approximately the 1988 level until a final management plan could be developed. As of 1992, a total of eight special use permits were issued to sport fish guides and outfitters, including boat rentals, for the Situk River.

In 1992 the Forest Service unilaterally initiated a study to determine the recreation use carrying capacity for the Situk River. A report was released in 1993, focusing on establishing a recreational carrying capacity downstream of the Nine Mile Bridge based on the management objectives in the TLMP. The report states that the study will not result in policy changes in management and strongly illustrates a lack of data and necessity of further comprehensive use surveys conducted concurrently with DFG. No such cooperative surveys or data analysis have been conducted. DFG has conducted an evaluation of the study (copy attached; June 13, 1994 memo from Regnart to Cunning) and offers to work with the Forest Service toward gathering desirable data and subsequent analysis.

CONCLUSION

While the Forest Service provided drafts to select individuals in the DFG and other agencies, such selective informal exchanges of information cannot be equated to genuine, formal participation of the State of Alaska as committed in the Environmental Impact Statement and as committed in the Cooperative Agreement.

The June 1994 Situk River Management Plan may provide a useful starting point for preparation of a more appropriate document that involves all necessary parties in its preparation. However, this document does not meet the standards of a viable plan, and its implementation is contingent upon funding.

Thank you for the opportunity to provide these comments. The State looks forward to working with you on a new, cooperatively developed plan for the Situk River.

Sincerely,



Paul C. Rusanowski, Ph.D
Director

Attachments

cc:

Walt Sheridan, U.S. Forest Service, Juneau
Harry Noah, Commissioner, Department of Natural Resources
Carl Rosier, Commissioner, Department of Fish and Game
John Sandor, Commissioner, Department of Environmental
Conservation
Michael Barton, Commissioner, Department of Transportation and
Public Facilities
Richard Burton, Commissioner, Department of Public Safety
John Katz, Governor's Office, Washington, D.C.