



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

ANILCA Implementation Program

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Dear Mr. Hammond:

The State of Alaska reviewed the draft Travel Management Plans (TMPs) and Environmental Assessments (EAs) for the White Mountains National Recreation Area (NRA) and the Steese National Conservation Area (NCA). The two TMPs are being prepared to supplement decisions made in the Eastern Interior Resource Management Plan (EIRMP) and may replace the interim travel management decisions made in the EIRMP. The following comments represent the consolidated views of state agencies, including the Alaska Departments of Natural Resources (DNR) and Fish and Game (ADF&G).

The State accepted the Bureau of Land Management's (BLM) invitation to be a cooperating agency in its scoping comments on the plans, dated May 2, 2019. Regrettably, no action was taken by BLM to involve the State in the development of these plans and as a result, BLM is currently offering the State limited opportunities and time to review materials and engage with BLM staff following the comment period. Statements made by BLM staff that the State is somehow expected to share the blame because it did not reach out to BLM are unfounded and misleading. BLM is responsible for engaging cooperating agencies and the State was given no formal opportunities to engage with BLM as a cooperating agency during the development of these plans.

BLM's intent to provide an additional comment period for any regulations required to implement decisions made in the plans is also not a substitute for engaging the State as a cooperating agency during the planning process to ensure state interests and issues are addressed in the plans themselves. The likely perception that the decisions have already been made due to the completion of the plans and associated analysis under the National Environmental Policy Act (NEPA) will be a disincentive to the public for commenting and also make it difficult for the State to effect reasonable changes to the proposed regulations when important relevant information is lacking. Moreover, changes may require plan amendments and additional analysis under NEPA; beyond needlessly expending the State's time and resources, this creates the risk of future litigation that could prolong, disrupt, and delay the State's management efforts. The appropriate time to engage with the State was during the development of the plans.

While we appreciate the late efforts to engage with State staff, as noted in the following comments, they are not an adequate substitute for working on the development of the plans themselves, nor is the time

remaining in BLM's current planning schedule adequate to engage State staff who have the appropriate expertise and knowledge of the planning areas and associated activities to provide needed information and to fully evaluate the impacts of the two draft plans on existing access and uses. We also questioned the appropriateness of the timing and length of the 30-day concurrent public comment periods, which began at the onset of hunting season when State staff, as well as hunters and subsistence users - important user groups - are either preparing to be or already out in the field. Our request for an extension of the comment period was denied by BLM, resulting in a failure to fully engage the public, as required in the Federal Land Policy and Management Act (FLPMA), on planning decisions that have the potential to preclude important access in these two popular recreational use areas. The contractual constraints cited by BLM as the reason for the short concurrent comment periods and the time remaining in the planning schedule is not an adequate reason for placing an excessive burden on the State as cooperating agency and limiting the public's ability to meaningfully comment. Additional comments relative to requirements for cooperation in the Alaska National Interest Lands Conservation Act (ANILCA) and FLPMA are provided below.

We urge BLM to reconsider its decision to move forward with the planning processes on their current schedule and request BLM revise the planning schedule to allow for meaningful engagement with the State as a cooperating agency and as required by FLPMA and ANILCA, followed by subsequent outreach to affected user groups and an additional public review period for any resulting revisions to the plans.

ANILCA Access Provisions

While State and BLM staff cooperated on the development of the ANILCA Access section of the EIRMP, which has largely been duplicated in the TMPs, it is apparent from the proposed decisions in the draft plans and discussions at related public meetings, that the full meaning of the access provisions is not well understood by BLM staff. The 2009 Alaska Travel Management Guidance provides better context for ANILCA; however, it appears BLM also did not refer to that regional guidance in the development of the two plans, and instead relied on national guidance that does not take ANILCA into consideration. We provide the following summary to reiterate how ANILCA applies to the two planning areas.

The White Mountains NRA, Steese NCA and the Birch and Beaver Creek Wild and Scenic Rivers (WSRs) were all designated by ANILCA. The NRA and NCA are not conservation system units (CSUs); however, they are still subject to numerous provisions in ANILCA, including provisions specific to the management of these areas in Titles IV and XIII. The Birch and Beaver Creek WSRs were designated by ANILCA and are defined by ANILCA as CSUs, subject to all of the statutory provisions in ANILCA that apply to CSUs, most relevant to the planning processes are the access provisions that apply to subsistence users and the general public in Titles VIII and XI. Both ANILCA sections 811 and 1110(a) direct the Secretary to allow motorized and non-motorized methods of access in all CSUs (e.g., WSRs) and the White Mountains NRA and Steese NCA, subject to "reasonable regulation." As interpreted by the other Department of Interior (DOI) agencies and recognized in DOI implementing regulations at 43 CFR 36, BLM has the authority to manage these methods of access where existing or reasonably likely impacts warrant site specific closures or restrictions, providing a meaningful public process, including adequate notice and hearing, and in the case of access authorized in Section 1110(a), a subsequent finding that the use would be detrimental to the resource values of the

unit or area. Sweeping restrictions and closures made in the context of a planning document on the basis of administrative designations or generalized “potential” impacts does not suffice as justification, i.e., “reasonable regulation,” for restricting these statutorily authorized methods of access.

The subsequent incorporation of the NCA and the WSRs into BLM’s National Landscape Conservation System (NLCS) (now referred to as National Conservation Lands), also does not alter the applicability of ANILCA to the NCA and CSUs. The enabling legislation that established the NLCS (Public Law 111-11) specifically incorporated an ANILCA savings clause:

(1) IN GENERAL.—Nothing in this subtitle enhances, diminishes, or modifies any law or proclamation (including regulations relating to the law or proclamation) under which the components of the system described in subsection (b) were established or are managed, including—

(A) **the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.);**

(B) the Wilderness Act (16 U.S.C. 1131 et seq.);

(C) the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(D) the National Trails System Act (16 U.S.C. 1241 et seq.); and

(E) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(PL 111-11, Section 2002(d)(1), emphasis added)

Contrary implications in the TMPs or statements made at the public meetings must be corrected in the administrative and public records. See also additional related comments that follow.

FLMPA Coordination and Consistency Requirements

FLPMA, 43 U.S.C. §§ 1701 – 1787, requires that the Interior Secretary “manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by [her] under section 1712 of this title when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.” 43 U.S.C. § 1732(a). The requirements for the development of land use plans are set forth in Section 202 of FLPMA, codified at 43 U.S.C. § 1712.¹ Subsection (c)(9) of this section imposes coordination and consistency requirements on the Interior Secretary. Specifically, this provision requires that the Secretary shall:

(9) to the extent consistent with the laws governing the administration of the public lands, **coordinate the land use inventory, planning, and management activities** of or for such lands with the land use planning and management programs . . . **of the States and local governments within which the lands are located**, . . . by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, [1] to the extent he finds practical, keep apprised of State, local, and tribal land use plans; [2] assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; [3] assist in resolving, to the

¹ In its regulations, the Bureau of Land Management refers to “resource management plans” rather than “land use plans.” We use the term “land use plans” to be consistent with the terminology used in FLPMA, unless quoting a BLM regulation or other agency document.

extent practical, inconsistencies between Federal and non-Federal Government plans, and [4] shall provide for **meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions** which may have a significant impact on non-Federal lands. Such officials in each State are **authorized to furnish advice** to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. **Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.**

43 U.S.C. § 1712(c)(9) (emphasis added). Moreover, the fact that the federal government owns certain public lands does not in itself preclude the parallel management authority of State and local governments. *See California Coastal Comm'n v. Granite Rock Co.*, 480 U.S. 572 (1987) (noting that this provision of FLPMA reflects the broader Constitutional principle that State and local governments are “free to enforce [their] criminal and civil laws on federal land so long as those laws do not conflict with federal law.”). Indeed, 43 U.S.C. § 1712(c)(9) establishes State and local governments as co-managers of public lands absent specific preemption by federal law. In implementing the above directive, i.e., the requirement to coordinate, FLPMA obligates BLM to do four things:

1. “to the extent [the Secretary] finds practical, keep apprised of State, local, and tribal land use plans;”
2. “assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands;”
3. “assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and”
4. “provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands.”

43 U.S.C. § 1712(c)(9).

Additionally, Requirement 4 – requiring that BLM provide for “meaningful public involvement” for State and local government officials “in the development of land use programs, land use regulations, and land use decisions for public lands”—is not qualified by the phrase “to the extent he finds practical.” Requirement 4 also applies broadly to a range of BLM actions that affect the planning and management of public lands. Thus, State and local governments must be provided “meaningful public involvement . . . in the development of land use programs, land use regulations, and land use decisions for public lands.” 43 U.S.C. § 1712(c)(9) (second sentence). This includes agency directives, policies, and guidance documents (e.g., Interior Department and BLM handbooks and manuals), which are subject to coordination. Coordination must take place before these documents are used in connection with land use planning and management, including the development of land use plans.

FLPMA's general savings clause regarding state management of fish and resident wildlife, at Section 302(b), 43 U.S.C. § 1731(b) also establishes BLM's responsibility to work with ADF&G on issues related to hunting and fishing.

Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

As these travel management plans will result in regulations that will directly affect access for hunting and fishing, ADF&G must be consulted in a meaningful way.

In this case, although the State was involved in the overall land use planning process for this area since its inception, BLM has notably left the State out of discussions concerning the White Mountains NRA and Steese NCA TMPs. The TMPs were developed as step-down management plans under the EIRMP and Final Environmental Impact Statement, which were finalized in July 2016. The State was closely involved in the development of the EIRMP, filing a Protest to the EIRMP on August 29, 2016, followed by a Governor's Consistency Review letter on September 28, 2016, the response to which was appealed by the State to the national BLM director on November 8, 2016, but was ultimately rejected by BLM. *See* 82 Fed. Reg. 6634 (January 19, 2017). Thereafter, however, despite the State's express involvement in the development of the EIRMP, BLM conspicuously failed to engage the State as a cooperating agency in the subsequent development of the White Mountains NRA and Steese NCA TMPs.

A letter requesting cooperating agency status for the State was timely submitted to BLM; however, BLM did not engage the State in a cooperative fashion in the development of these draft plans. As previously noted, the State was informed of the imminent release of the draft plans for public review but was given no formal opportunities to work with BLM as cooperating agency on the development of the draft plans.

Consistency with State Plans

The TMPs' proposed restrictions on Highway and OHV access with weight limits and overland travel are not consistent with management policies and recommendations contained in the State land use plans. These inconsistencies exist even though the statutory direction of FLPMA and the later adopted state statutes as they relate to the overarching policies and planning requirements are substantially similar. Regarding overland travel by highway and OHV use, the state lands are managed similarly to BLM's "limited" management category. Use of these vehicles is allowed on state lands if the use is conducted consistent with existing regulations, including conditions for its use that minimizes impact to resources.²

While the White Mountains NRA and the Steese NCA are ANILCA designated units, ANILCA provides specific direction to manage the Steese NCA "within the framework of a program of multiple use and sustained yield" (ANILCA Section 401(a)) and the White Mountains NRA "in accordance with the provisions of section 1312 [of ANILCA] and other applicable provisions of this Act, the Federal Land Policy and Management Act of 1976, and other applicable law" (ANILCA Section 403). ANILCA Section 1312(a) and (b) directs BLM to manage the White Mountains NRA in a manner that will

² 11 AAC 96.020 and 11 AAC 96.025

provide for both outdoor recreation benefits and the conservation of scenic, scientific, historic, fish and wildlife, and other values contributing to the public enjoyment.

Within FLPMA, Congress provided for the preservation and protection of natural resources and uses of public lands.³ FLPMA requires that BLM “prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern.” It further requires BLM to “maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.”⁴ Thus, FLPMA provided that BLM seek to protect the quality of resources, preserve and protect certain lands to provide for use by the public and fish and wildlife resources while at the same time recognizes the national need for domestic production of renewable and nonrenewable resources.

³ FLPMA Section 102(a)(8) and (12) provides the policy of the federal agency regarding management of federal lands, including direction that public lands be managed

“...in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use” and

“...in a manner which recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands.”

⁴ “In the development and revision of land use plans, the Secretary shall–

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) rely, to the extent it is available, on the inventory of the public lands, their resources, and other values;

(5) consider present and potential uses of the public lands;

(6) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(7) weigh long-term benefits to the public against short-term benefits;

(8) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

of FLPMA provide the specific guidance to prepare and maintain an inventory of public lands and their resources and other values...”

Similarly, the Constitution of the State of Alaska and State statutes provide the policy for the management of state resources.⁵ The Alaska Legislature implemented this constitutional direction by promulgating statutes specific to resource management in Title 38. Specifically, the policy of the State under AS 38.04.005 provides:

“In order to provide for maximum use of state land consistent with the public interest, it is the policy of the State of Alaska to plan and manage state-owned land to establish a balanced combination of land available for both public and private purposes. The choice of land best suited for public and private use shall be determined through the inventory, planning, and classification processes set out in AS 38.04.060 - 38.04.070.”

Alaska Statute 38.04.065 requires the State to adopt land use plans that “provide for the use and management of state-owned land.” It provides specific direction for the development of the State’s land use plans and requires the Commissioner of DNR to, among other provisions; “use and observe the principles of multiple use and sustained yield” and “give priority to planning and classification in areas of potential settlement, renewable and nonrenewable resource development, and critical environmental concern.”

Title 38 statutes that provide the policy of the State and planning and classification requirements were promulgated in 1978 just two years after the federal government adopted the FLPMA of 1976. These state statutes mirror many of the provisions contained in FLPMA and in some cases are identical.

DNR assessed its land base, including state selected BLM lands, and provided management intent and recommendations in three state land use plans that are adjacent to the planning area. These include the Upper Yukon Area Plan; Eastern Tanana and Yukon Tanana area plans (revisions of the Tanana Basin Area Plan). Having assessed essentially the same land and resources within the TMPs planning area with similar statutory direction, the policies and recommendations contained in the recently completed White Mountains and Steese TMAs differ significantly from the existing state land use plans, and in some cases reach vastly different conclusions on how the lands are to be managed.

Alaska Statute 16.05.020 requires the ADF&G commissioner to:

(2) manage, protect, maintain, improve, and extend the fish, game, and aquatic plant resource of the state in the interest of the economy and general well-being of the state.

The proposed TMPs also fail to comply with the 2015 East Tanana Area Plan management guidelines (page 2-14), in regard to fish and game management which state: *The management of state land and resources are also to be consistent with the requirements of sustained yield, as described in Article VIII*

⁵ Article 8, Section 1 of the State Constitution provides: “It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.”

Section 2 of Article 8 provides: “The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.”

of the State Constitution as well as our potential ability to meet our harvest objectives set at 5 Alaska Administrative Code 92.108. which requires management of lands and resource to be consistent with the requirements of sustained yield.

The EIRMP travel management guidelines are not consistent with state Generally Allowed Uses (GAUs) and are often more restrictive in nature. As we have noted in our comments in previous planning efforts and notice periods, for the RMP to be consistent with State plans, policies, and programs, there should not be travel management restrictions that are more restrictive than the State's GAUs. For example, BLM has placed weight restrictions of 1000 pounds on certain trails that are considerably more restrictive than the 1500-pound limit of GAU allowances, furthermore this new weight will preclude UTV use entirely as almost all UTV's are over the proposed 1000 pound limit. As an example, if a member of the public driving a UTV weighing greater than 1000 pounds inadvertently crossed into BLM land on a trail that originated on state land, that had the 1000-pound limit, they could be facing misdemeanor charges. This difference in management will have a profound effect on the public's ability to travel throughout the planning area, and we request BLM align its travel management requirements with State GAU's.

ANILCA Requires BLM to Work Closely with the State on Planning for the White Mountains NRA

ANILCA Section 403, 16 U.S.C. 460mm-2, specifically states "In planning for the recreational use and management of this area [White Mountains NRA], the Secretary shall work closely with the State of Alaska." Absent State involvement, management direction articulated in these plans is not consistent with the management intent articulated through state land use plans and does not address public recreation, use, and access concerns adequately.

For context, the White Mountains NRA is in close proximity to the large interior community of Fairbanks and two smaller communities of Circle and Central and is bounded on the west and south by state lands. Access to the NRA is provided by the Steese Highway, which originates in Fairbanks and continues north and east passing through Circle before terminating in the community of Central on the bank of the Yukon River and by the Elliot Highway, which similarly originates in Fairbanks and traverses north and south near the western boundary of the NRA. Most of these highway routes exist on the state lands bounding the NRA. Unlike lands in the 48 conterminous states, Alaska lacks a well-developed road network. As a result, the few existing routes facilitate, and somewhat concentrate, use by Alaskans and visitors to the state. By necessity, lands adjacent to roads support a diversity of uses including recreation; access for hunting and fishing; harvest of fish, game, wood and other natural resources; and access to mining claims, private property, and adjacent federally-managed and privately-owned lands, including large tracts of land owned by Alaska Native Corporations. In fact, most use occurring within the White Mountains NRA originates from the state owned and maintained roads and adjacent state lands, including the access to the Beaver Creek WSR. Engagement with state agencies in the development of its plan was necessary to manage access within the NRA as it directly affects uses of the adjacent state lands, limits access to state navigable waterbodies and state owned shorelands, and limits uses on state owned navigable waters and RS 2477 highways.

RS 2477 Rights of Way

The State of Alaska claims numerous rights-of-way (ROWs) across federal land under RS 2477, including ROWs identified in AS 19.303.400. There are numerous, valid RS 2477 ROWs owned by the State of Alaska that fall within the boundaries of the two planning areas. Many of these valid, State-owned easements are not included in the proposed plans, even though the State has asked BLM to recognize them continuously throughout the planning process. The failure to delineate these property interests owned by the State of Alaska is arbitrary and capricious; creates needless confusion and misunderstanding; represents an unconstitutional taking; and clouds clear state title to these lawful state property interests. See 28 U.S.C. § 2904a; *Sturgeon v. Frost*, No 17-949, 587 U.S. ___ (Mar. 26, 2019); *Mark Patrick Heath*, 181 IBLA 114 (2011). The State's June 12, 2019 comments on the Bering Sea Western Interior RMP draft plan and EIS included a complete explanation of how Revised Statute 2477, located in Section 8 of the Mining Law of 1866, granted numerous State ROWs across federal land in Alaska. These comments are enclosed for reference.

Both the White Mountains NRA and the Steese NCA TMPs provide the same explanation for not addressing State-owned RS 2477 ROWs, as follows:

A TMP is not intended to provide evidence for, have bearing on, or address the validity of any Revised Statute (R.S.) 2477 assertions. R.S. 2477 rights are determined through a process that is entirely independent of the BLM's planning process. Consequently, this TMP did not take into consideration R.S. 2477 assertions or evidence. The BLM bases travel management planning on purpose and need related to resource uses and associated access to public lands and waters with consideration to the relevant resources. When a decision is made on R.S. 2477 assertions, the BLM will adjust its travel route designations accordingly. The BLM will continue to consider granting ROWs for or including vehicular use. These ROWs would be processed and evaluated under NEPA and subject to any requirements stemming from that evaluation.

Notwithstanding the foregoing claims, by imposing access restrictions on State-owned RS 2477 ROWs within the planning area, BLM is doing the very thing that it claims it is not doing – adjudicating the validity of State-owned routes and exerting ownership and control over the same. By applying regulation and management decisions to the State's ROWs, BLM is functionally negating State property interests; invalidating State RS 2477 ROWs; and placing unlawful clouds on State title.

This is especially problematic given that BLM can provide non-binding administrative determinations of possible RS 2477 ROWs for its own internal purposes. *S. Utah Wilderness All. v. Bureau of Land Mgmt.*, 425 F.3d 735, 757 (10th Cir. 2005), *as amended on denial of reh'g* (Jan. 6, 2006). In fact, in order to provide a rational basis for its decision, BLM is required to at least consider the possible existence of RS 2477 ROWs; and should it categorically refuse to do so, the agency's decision will be overturned. *Mark Patrick Heath*, 181 IBLA 114, 128 (2011); *see also Charles W. Nolen*, 168 IBLA 352, 259 (2006); *Courtney Ayers*, 122 IBLA 275, 278 (1992); *Leo Titus, Sr.*, 89 IBLA 323, 338 (1985). Under the guise of not adjudicating the validity of RS 2477 routes within the planning area, BLM is dictating – in a manner contrary to State law and federal precedent – what can and cannot occur on state owned ROWs. We request BLM recognize all State RS 2477 ROWs in the planning area and remove all restrictions that conflict with the State's generally allowed uses (see section 11 AAC 96.020 – Generally allowed uses).

State-owned Navigable Water Bodies

The State appreciates the recognition in the TMPs of the State's management authority over navigable water bodies.

*Navigable water was identified within land status data to reflect State management authority.
Non-navigable water was identified within land status data to reflect BLM management authority.*

To present this information within a larger context of navigability statewide, we recommend adding the following language.

*Navigable water was identified within land status data to reflect State management authority.
Non-navigable water was identified within land status data to reflect BLM management authority. Identification of navigability status data is not intended to be a substitute for existing processes to establish navigability in fact or for title purposes of a waterbody. The navigability status of a waterbody can change therefore the recreating public is encouraged to contact the state and federal managers if the status of a waterbody is in question.*

Cultural Resources

DNR appreciates the inclusion of the cultural resources' sections in the TMPs and BLM's continued diligence in the preservation of historic landmarks and resources. However, we request BLM consider the following recommendations.

- Many references cited in the cultural resources' sections for the White Mountains National Recreation Area and the Steese National Conservation Area TMPs are not included in their respective references section in Appendix A.
- Analysis and estimation of currently unidentified cultural resources focused on prehistoric archaeological resources, even though historic resources were identified as having a higher incidence of intersection with the inventoried routes. DNR recommends incorporating a predictive model for historic resources to assist with identifying and analyzing potential effects to historic resources.
- The routes were not considered for their potential to be historic properties, which is a related but separate issue from RS 2477. Management designations on routes that change or restrict their travel way, maintenance level, and/or mode of use can adversely affect historic roads and trails. DNR recommends that the potential for routes to be historic properties be addressed with the TMPs.
- Many assumptions were made about the impacts certain types of use would have on archaeological resources. DNR recommends incorporating periodic monitoring of known cultural resources to confirm the accuracy of assumptions about the effects of winter vs. summer OHV use and OHV vs non-motorized use has on cultural resources, as well as the efficacy of minimization measures. This would assist with management during the plan's life as well as facilitating future planning.

- Neither of the cultural resources sections in the plans contain information about known properties of traditional and/or cultural significance to communities or efforts to identify them. We recommend including these properties and past identification efforts into the description of the known environment, as well as discussing any potential impacts.

Impacts to Alaska Department of Fish and Game (ADF&G) Management Authority

The EIRMP recognized that the State of Alaska manages for the sustainability of all fish and wildlife populations. These two proposed travel management plans (TMPs) are step down plans from the EIRMP and thus must follow the management directions outlined in the EIRMP.

Under the Wildlife Section of the EIRMP, the BLM included a specific wildlife goal to work with ADF&G in monitoring both fish and wildlife populations and habitat. This goal was recognized in both the White Mountain NRA and Steese NCA TMP EAs, Appendix E. Record of Decision/RMP Guidance– pages E-7 in both documents.

In cooperation with ADF&G, monitor wildlife populations and habitats and manage BLM lands to conserve and enhance fish and wildlife populations. Ensure optimum, self-sustaining populations and a natural abundance and diversity of wildlife resources.

The EIRMP, and TMPs, also recognized the importance of the Fortymile caribou herd to the planning area as well to these two specific management areas including Wildlife Management Decision, Wild-7, to develop a caribou habitat management plan, in cooperation with ADF&G, for the historical range of the Fortymile caribou herd.

Wild-7: Develop a caribou habitat management plan for the historical range of the Fortymile caribou herd. In cooperation with other land managers and ADF&G, utilize a combination of on the-ground inventory and remote sensing of caribou habitat, along with caribou habitat use and distribution data, to develop the plan. (page E-7-8, White Mountain TMP EA and page E-8, Steese TMP EA).

ADF&G is currently managing the Fortymile herd under intensive management harvest goals due to overpopulation. ADF&G biologists are working to bring the population numbers down to a level the habitat, throughout its range – including the White Mountains NRA and the Steese NCA can support; however, **the additional access restrictions proposed in these two TMPs, and their effects on the ability of our hunts to achieve desired numbers, will significantly impede ADF&G’s ability to meet these goals and achieve its management objectives.**

As currently proposed, these two TMPs, not only threaten ADF&G’s ability to successfully manage the Fortymile caribou herd’s population under the sustained yield principal; but also threatens its ability to meet its constitutional mandate to provide sustained hunting and fishing opportunities for the people of the State.

Preparation of the joint Caribou Habitat Management Plan by ADF&G and BLM, as discussed in the EIRMP, should be a critical component to complete prior to the finalization of these TMPs.

Equally important is ADF&G’s ability to fully utilize the cooperating agency status, to include meetings where ADF&G and BLM staff could look at the possible route/trail inventory maps together to ensure BLM identified and included the routes most critical for hunter access, unless resource impacts

required route closure(s). As anyone who has been on the trails know, there are innumerable offshoots of the “main” trails/mining roads (identified as “routes” in the TMP), some of which are critical for hunter access and use.

The EAs include no discussion outlining how BLM decided which routes to include in the “travel network,” nor how comprehensive the on the ground effort was to scope out these trails. BLM Land Use Planning Handbook H-1601-1 (H-1601-1) specifically states in its definition of “Travel Management Area” (Glossary -8), that *All designated travel routes within travel management areas should have a clearly identified need and purpose.*

Considering the importance of these travel networks to ADF&G’s hunts in these two BLM areas and to our management efforts, the failure to include the State as a cooperating agency in earlier stages of these TMP reviews is a major flaw in this planning effort.

Even without our cooperating agency status, numerous other plans, policies, regulations and statutes applicable to BLM land management identify the State as the agency responsible for wildlife management, control and regulation on federal lands, including: FLPMA, Section 302(b); ANILCA, Section 1314; and Section 2002(c)(2) of the NLCS legislation (Public Law 111-11). In the case of the NLCS, states are specifically identified as responsible for fishing, trapping and recreational shooting regulations.⁶ Any one of these laws should have triggered discussion with the State fish and game agency on wildlife issues for these TMP EAs.

We also find the proposed TMPs lack information required by BLM’s Land Use Planning Handbook (H-1601-1) that is critical to our management authority. The needed information includes consistency with all resource program goals and objectives (as stated above cooperating with ADF&G is a wildlife goal for the EIRMP and the proposed TMPs); primary travelers (hunters); objectives for allowing travel in the area (hunting); and the primary means of travel allowed to accomplish the objectives (OHVs and UTVs) (H-1601-1, Appendix C, page 17, D. Comprehensive Trails and Travel Management). As stated above, cooperating with ADF&G on wildlife population and habitat issues is one of the primary wildlife goals of the EIRMP. The Land Use Planning Handbook (H-1601-1) also states that, at the implementation phase of the plan, products will include, among others, a map of all roads and trails for all travel modes; criteria to select or reject specific road and trails in the final travel management network, and to add new roads or trails and to specify limits; guidelines for management, monitoring, and maintenance of the system; and indicators to guide future plan maintenance, amendments, or revisions related to the travel management network. None of these items are included in the travel management plans. (H-1601-1, Appendix C, page 19-20)

Public Law 111-11 (which applies to the Steese NCA) also states in Section 2002(c)(2) that nothing in the NLCS shall be construed as *limiting access for hunting, fishing, trapping, or recreational shooting.*

⁶ FISH AND WILDLIFE.—Nothing in this subtitle shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations, including the regulation of hunting, fishing, trapping and recreational shooting on public land managed by the Bureau of Land Management. Nothing in this subtitle shall be construed as limiting access for hunting, fishing, trapping, or recreational shooting. National Landscape Conservation System (NLCS) Public Law (PLAW) 111, Section 2002(c)(2)

This is important to note because during the August 5, 2021, public meeting on the Steese NCA TMP EA, BLM staff, in a response to a question regarding motorized use restrictions, stated that -- on NLCS lands, it is not common policy to allow cross country travel. In fact, “it’s very rare we are allowing or considering any motorized use.” BLM’s response failed to recognize the unique land setting and access issues and allowances existing in Alaska as recognized by Congress in ANILCA and the NLCS legislation.

To demonstrate compliance with the NLCS, the TMP EAs need to address how they are avoiding access limits to hunting, fish, and trapping. The EAs should also discuss the unique Alaskan landscape that has traditionally involved motorized use to access these activities. As currently proposed, the Steese NCA TMP will limit hunting opportunities, via restrictions on access, which at the same time will significantly impact our ability to manage the Fortymile caribou herd population.

In 1983 our agencies signed a Master Memorandum of Understanding (MMOU) documenting the intent for cooperation between our two agencies. In the MMOU, ADF&G committed to *regulat[ing] and manag[ing] use of fish and wildlife populations on Bureau lands in such a way as to maintain or improve the quality of fish and wildlife habitat and its productivity* (MMOU 2). This is exactly what ADF&G is trying to do with its current management of the Fortymile caribou herd. The best action BLM can take to ensure there is no threat to the Fortymile caribou is to support the harvest ADF&G has prescribed in an attempt to minimize the decline of the herd and work with the ADF&G on the best ways to protect BLM lands during the hunts. The current herd exceeds the carrying capacity of available forage which is a real threat to subsistence use (both State and federal) of the herd.

BLM, in the MMOU, agreed to “recognize [ADF&G] as the primary agency responsible for management of use and conservation of fish and wildlife resources on Bureau land; (MMOU 2) and [t]o recognize the [ADF&G] as the **primary agency responsible for policy development and management direction relating to fish and wildlife resource on State and Bureau lands** (emphasis added), pursuant to applicable State and Federal Laws; (MMOU 3); and **to incorporate the [ADF&G’s] fish and wildlife management objectives and guidelines in Bureau land use plans** (emphasis added) unless such provisions are not consistent with multiple use management principals established by FLPMA, ANILCA, and applicable Federal law.” Both travel management planning processes and resulting EAs fail to adhere to the commitments BLM made in the MMOU.

General Comments

Proposed TMPs Will Significantly Impact ADF&G’s Wildlife Management Authority

Issue:

- The proposed White Mountain NRA TMP and Steese NCA TMP will significantly impact ADF&G’s ability to fulfill our constitutional mandated responsibilities to manage wildlife populations and to provide sustained hunting opportunities for the people of Alaska.
- Releasing the two TMP EAs at once and during hunting season significantly impedes the ability of our local Fish and Game Advisory Committees and affected users to comment.
- BLM used unpublished data, from a foreign government, regarding Alaska resources and failed to consult with ADF&G on those data.
- BLM is improperly making Fortymile caribou population decisions.

- An unpublished study is used to reach management decisions.
- Citations are incomplete, for example there is no mention that Mike Sutor is with the Yukon government, nor is the analysis that is attributed to him included in either EA's Appendix A, Acronyms, Glossary, or References.

Proposed Resolution:

- BLM's NEPA finding for each of these two TMPs should be that the plans may have significant effects on ADF&G wildlife management responsibilities and the TMPs will move to an Environmental Impact Statement (EIS).
- As an alternative, the comment period should be paused and BLM should work with the State to gain additional information prior to re-release of the EA.
- An additional alternative proposing the addition of more routes should be included which will spread hunters out over a wider landscape.
- The EAs need to document impacts to resources for existing trails they have eliminated from the proposed routes. ADF&G can then determine which routes are best to request for hunter access.
- BLM needs to support the harvest ADF&G has prescribed for the Fortymile caribou herd as we attempt to minimize the decline of the herd.
- BLM and ADF&G staff need to meet and exchange information on the Fortymile caribou herd, its habitat and TMP route selections.

Discussion:

The current Fortymile caribou herd exceeds the carrying capacity of available forage which is a real threat to subsistence use (both State and federal) of the herd. The hunt that occurs in the area of these two TMPs is extremely important to our management efforts as we try to bring the herd population numbers down. Hunter access is critically important in achieving successful hunts.

The Steese and White Mountains TMPs indicate that BLM is making caribou population decisions and using them as a factor in their travel management decisions regarding route selection.

White Mountain EA, Page 24 -- Hunter OHV use of trails and areas in the Steese highway region has become extremely heavy in the last few years, creating the potential for **displacement of caribou from the area and diversion from their migratory path** (emphasis added) as well as damage to habitat. **Within the delineated migration corridor** (emphasis added), limitation of all OHV users to managed routes would reduce both habitat damage **and displacement of caribou** (emphasis added). This would, however, limit OHV access by subsistence users.

Steese EA, page 24, -- The impacts from high levels of OHV use in the Steese NCA for caribou harvest will increase impacts to lichen habitats and **high hunter density can result in disruption of caribou movements and migration and may impact caribou populations and availability** (emphasis added). The ability to access the area by non-Federally qualified subsistence users and harvest success may impact subsistence access to the same resource.

Steese EA, page 24 -- Hunter OHV use of trails and areas in the Steese highway region has become extremely heavy in the last few years, **creating the potential for displacement of caribou from the area and diversion from their migratory path** (emphasis added), as well as damage to habitat. **Within the delineated migration corridor, limitation of all OHV users to managed routes would reduce** both habitat damage and **displacement of caribou** (emphasis added). This would, however, limit OHV access by subsistence users.

White Mountain EA, page 29 -- **This is evident as restrictions have increased and access to game throughout the state has been reduced throughout the years, more people have been traveling north to the Interior of Alaska to harvest game** (emphasis added).

Steese EA, page 46 and White Mountain EA, page 52 -- **Heavy hunting pressure in combination with ready access for summer OHV use may reduce use by caribou** (emphasis added), of these important summer habitats.

White Mountains EA, page 59 -- **This area [Upper Nome Creek Area above the Mount Prindle Campground] has in recent years served as a refugia for caribou from heavy hunting pressure** (emphasis added), in surrounding areas open to cross country summer OHV use. **Subsistence OHV use would reduce that positive effect on caribou** (emphasis added).

Steese EA, page 89 -- **Heavy hunting activity can impact caribou movements, migrations, and distribution.** (emphasis added) High harvest quotas since 2017 have resulted in very high levels of hunter activity in the Steese Highway region. **A recent analysis of radio collared Fortymile caribou (Mike Sutor, 2020) showed that caribou used areas near secondary roads less than more distant areas and were less likely to cross them. This effect was stronger during days open to hunting. In the summer and fall of 2020, observations of tracks of satellite-collared caribou showed that a small proportion of attempts to cross north of the Steese Highway were successful (Herriges, 2021) during both open and closed hunting periods ... It is not possible to predict these activities and changes accurately, but there is at least the possibility that they may combine to create substantial impacts on caribou.** (emphasis added)

White Mountains EA, Page 94 -- **Heavy hunting pressure in the vicinity of roads such as the Steese and Taylor highways can affect migrations across those road systems and, as a result, the distribution of the herd** (emphasis added) and the use of certain habitats may be limited by such activity.

Because ADF&G staff were not involved in these analyses, we are unable to agree with any of the statements or conclusions reached by BLM. BLM needs to hold discussions on these conclusions with State staff prior to continuing this planning process. The high harvest and continual presence (demonstrated through years of location data) of caribou in these areas during the fall hunt does not support BLM's conclusion that OHV use is diverting or displacing caribou from this area. If any of these concerns have been brought forth from the public suggesting such, they are likely misdirected due to the high density of hunters, which ADF&G acknowledges is present.

Prior to the release of these draft TMPs, ADF&G was not unaware of the "recent analysis of radio collared Fortymile caribou" by Mike Sutor, 2020, which BLM used to support their conclusions. ADF&G staff work directly with Yukon Canada wildlife biologist Mike Sutor and with BLM's wildlife

biologist, Jim Herriges on a regular basis on both caribou and Dall sheep biology. Given our responsibility as the wildlife manager for all lands within the State, it is *extremely concerning* to us that neither this recent analysis, nor BLM's work on these TMPs were ever brought to our attention. At a minimum, the Suitor and Herriges data needs to be compared with our data prior to finalizing any conclusions regarding impacts to caribou can be made in these EAs. (Note: We have found no evidence that the Suitor/Herriges analysis has been published. It is inappropriate for BLM to use unpublished data, from a foreign government regarding Alaska resources without consulting with ADF&G. ADF&G has worked closely with Yukon Canada on issues related to the Fortymile caribou herd, yet had not received any information regarding the analysis referenced in these reports.

ADF&G has carried out a preliminary look at their radio collar data. ADF&G data do not appear to support the BLM conclusions. However, these data have not yet been formally analyzed and it is too early to draw any conclusions. ADF&G supports using good science to make sound population and habitat management decisions, we look forward to an opportunity to work together with the BLM and Yukon Canada to consider all available data on the Fortymile caribou movement in the vicinity of both the Steese NCA and the White Mountain NRA prior to finalization of these TMPs.

Currently, staff is measuring many variables (i.e., parturition rates, calf weights, adult female survival, etc.) to determine the population status and, hopefully, confirm our beliefs; however, until we have an accurate photocensus it will be difficult to say to what degree the population has changed. We do know however, that the population is in a decline, and though we can't predict at what rate hunter effort will decrease, with fewer animals on the landscape, overtime, hunter effort will decline as well.

No supporting information is included in the EA to document that high OHV use is currently impacting lichen habitats within the TMAs. The EA's generally analyze OHV impacts in terms of the "potential" for impacts, rather than documentation of actual impacts. We are aware that ATV/UTVs can damage wildlife habitat, but past GIS inventories of ATV/UTV trails indicate the total area of impacted area is inconsequential. The TMPs refer to aerial surveys that were used to document trail impacts. As both wildlife manager and cooperating agency, ADF&G requests an opportunity to review this information and an additional joint review of GIS imagery.

We disagree with the statement that access by non-Federally qualified subsistence users and their harvest success may impact subsistence access to the same resource. The current threat to the Fortymile caribou is overpopulation. According to our data for 2020, 14,691 individual hunters hunted the herd, of which only a few hundred were likely federally qualified subsistence hunters. These numbers are needed to allow us to meet harvest objectives. A precipitous decline in the number of caribou due to the herd exceeding carrying capacity of available forage is the real threat to subsistence use of the caribou. Subsistence hunting alone is insufficient to meet the harvest objectives that allow us to meet management goals and prevent the herd from exceeding the carrying capacity of available habitat.

We appreciate BLM's decision to address travel management in these two legislatively designated areas in separate EAs. This is an approach the State requested in a July 24, 2017, letter to Michael D. Need, Acting Director of BLM, on how to streamline BLM's planning process and ensure responsiveness to local needs. However, by failing to consult with the State, as wildlife manager and cooperating agency, prior to the release of the documents, we were unable to identify and resolve the impacts the TMPs currently pose to our constitutionally mandated management responsibilities. In addition, by releasing the two EAs at the same time, with the same review period, BLM has negated the reasoning for our

request, i.e., to make smaller, more focused plans that would afford the affected public an opportunity to review and meaningfully comment on planning documents.

More importantly, the two TMPs, whose primary user groups are outdoor recreationists, including hunters, were released at the end of July, at the advent of hunting season. This timing precluded BLM discussing their travel management plans with the local Fish and Game Advisory Committees and makes it extremely unlikely that either users or user groups will be able to review the TMPs, increasing the likelihood that BLM will not receive meaningful comments from the affected public.

We appreciate BLM has offered to work closely with the State on the preparation of the Final TMPs. However, the timeframe BLM has currently offered is insufficient, as it is the middle of hunting season, the busiest time of year for our staff. We also believe that the finalization of these TMPs should not be driven by the fact that an outside contractor's contract will expire. These TMPs will be in effect for at least 10 years and should be prepared for the best management result, not expedience.

Given adequate time, we believe it is possible for ADF&G and BLM to successfully collaborate and develop a path forward that best fits the joint missions of our agencies. These missions include providing access to federal lands for many types of user groups, including hunting opportunities, preventing/mitigating impacts to habitat and trails, while continuing to allow ADF&G to manage this herd. For example, adding existing trails to the trail inventory, rather than restricting access, may be the best solution, as it will allow hunters to spread out across the landscape, thus reducing pinch points at certain access points. Greater communication between our agencies on management issues is also clearly critical.

ADF&G and BLM are both aware of what to expect each year during hunting season, as in recent years the caribou have been present in the Steese NCA and along the Steese Highway during the fall hunt, and therefore, a high degree of hunter presence and harvest in these areas, particularly the Steese NCA, is assured. Though we believe the herd population has likely peaked and we will likely see a reduction in hunter crowding issues. The TMPs should recognize BLM's responsibility to collaborate with ADF&G to minimize any resulting potential for land degradation in the future.

Off-Highway Vehicle (OHV)/Utility Terrain Vehicle (UTV) Use, All Alternatives

Issue:

- Winter Maps are inaccurate. OHV and UTV use are currently allowed on existing routes.
- Winter use of OHVs/UTVs does not cause significant resource impacts.
- Restricting winter use of OHVs/UTVs could significantly impact hunter success to harvest animals.
- Low hunter success rates will significantly impact ADF&G's ability to meet harvest objectives for the Fortymile caribou herd.
- Substantial UTV use currently occurs in the TMAs.

Proposed Resolution:

- Allow winter use of OHVs/UTVs where summer use is allowed, up to a 1,500-pound limit.
- Re-visit public outreach on existing trail networks for the White Mountains NRA and Steese NCA.
- Provide additional summer use routes for UTVs.
- Comply with State GAUs on OHV use.
- We request BLM update current field signage to note the current allowance for winter use of 1,500-pound vehicles.

Discussion:

The public needs to have an opportunity to review an accurate map of the White Mountains and Steese Alternative A Winter Management that depicts the existing trail network showing present existing use by both OHVs and UTVs in order to understand the impacts the proposed TMPs will have on them.

Winter OHV/UTV Use

The range of alternatives for winter management is not reasonable or adequate and would have a significant negative impact on hunters' ability to harvest caribou as none of the alternatives allows OHVs/UTVs in the winter on routes that are open in the summer. The negative impact on hunter success will impact ADF&G's ability to meet harvest objectives, particularly, in low snow years during the critical first few days of the winter hunt opening. We request BLM allow OHVs/UTV use in the winter in both the White Mountain and Steese TMPs, at a minimum, in the same manner they are allowed during summer use.

The winter period begins October 15, and there is little to no snow many years on the caribou season opening on October 27. By that time of year, the ground is frozen, and we are unaware of any resource impacts OHVs/UTVs would cause; therefore, we see no reason to restrict winter OHV/UTV use.

We request BLM designate summer routes for OHV/UTV as winter use also. We request a 1,500-pound limit as this will match the State's Generally Allowed Use (GAU) weight limit for state lands. Again, the ground is frozen by that time and these vehicles do not necessarily do more damage than the lighter OHVs. If BLM has information demonstrating that 1,500-pound OHVs do more damage on frozen ground, we would like an opportunity to review it, as the trails proposed for OHV use only in the TMPs are currently used by both OHVs and UTVs. We believe that damage is caused by individual users rather than specific types of motorized vehicles. Given this, we believe additional enforcement capabilities are the solution to solving any existing problems with motorized use, as opposed to additional limits.

Additionally, compliance with State GAUs will provide needed consistency for hunters, anglers, and trappers recreating and gathering subsistence resources across public lands. Many areas of the plan are accessed by first crossing state lands, for example -- Colorado Creek Cabin via the trailhead at the Tolovana Bridge or from the Elliott Highway (following the ridge between O'Brien Creek and Globe Creek); Moose Creek Cabin by the Trail Creek Trail from Haystack Subdivision at 11 Mile Elliott Highway; McKay Creek Trail, and Lee's Cabin by the Wickersham Creek Trail; Trail Creek Trail;

Bachelor Creek Trail; Porcupine Cree/Ridge Trail; these are all accessed through state/state selected lands.

We also point out that BLM never made an interim management decision in the White Mountains NRA or the Steese NCA EIRMP RODs regarding winter use of OHVs, yet the current field signage limits all OHV use to 1,500 pounds, and is not limited to summer use, as indicated in the RODs.

*Implement a 1,000-pound curb weight limitation and 50 inch width **for summer** OHVs to replace 1,500 pound GVWR limitation in the Steese National Conservation Area. [emphasis added] (p. 85, 2016 EIRMP Steese ROD)*

*Implement a 1,000-pound curb weight and 50 inch width limitation **for summer** ATVs to replace 1,500 pound GVWR limitation in the White Mountains SRMA. [emphasis added] (p. 82, 2016 EIRMP White Mountain ROD)*

BLM should not implement the restrictions proposed in these TMPs that are not currently covered by the existing ROD/RMP or implemented by regulation. Not only are these limits unenforceable, but the signage will also create an issue for hunters on October 27th when the Fortymile hunt reopens.

Summer UTV Use

UTVs (are generally assumed to be side-by-side rigs by the BLM) as indicated on the sandwich boards BLM placed in the field prior to the 2021 fall Fortymile hunt opening. BLM currently limits these side-by-sides and argos to two (2) mining roads located in the NCA south unit.

Large numbers of Fortymile hunters use these vehicles in both the Steese NCA north and south units and, to our knowledge, these vehicles do not necessarily do more damage than the lighter OHVs. If BLM has information supporting resource impacts caused by UTVs, especially on hardpacked, routes/trails we would like an opportunity to review it. We understand that BLM has switched their administrative vehicle of choice from ATVs to UTVs (ROVs)⁷, this fact indicates to us that resource impacts are, at a minimum, seen as co-equal by the BLM. Regardless, there should be at least some designated routes/trails, in addition to the two (2) mining roads, where vehicles up to 1,500 pounds can be used, especially as this is the standard on state lands.

If BLM moves forward with the current restrictions, we request the EA document the durability or the non-durability of specific trail surfaces. If OHVs/ATVs are restricted to designated trails, with off-road game retrieval, we request the weight limit on the trails be increased to 1,500 pounds, though we could support an off-trail game retrieval limit to 1,000 pounds vehicles.

Information Lacking in Both TMP EA's

Issue:

- Conclusions reached in the EAs on resource impacts are unsupported in the documents.
- EA alternatives fail to discuss impacts proposed TMPs will have on hunters hunting under state regulations.

⁷ [Instructors get more training as ROVs replace ATVs | Bureau of Land Management \(blm.gov\)](#), accessed 8/17/2021

- Alternative D fails to support the conclusion that it will result in increased use by subsistence users.

Proposed Resolution:

- Remove statements from the EAs that are unsubstantiated and speculative.
- Please provide a discussion of the impacts each alternative will cause to general hunters in each EA. This should include a substantiated discussion on the impacts the proposed access restrictions will have on caribou, moose, and Dall sheep hunting opportunities in the Steese NCA and White Mountains NRA.
- Please provide information to support the conclusion in both EAs that Alternative D will result in increased use by qualified federal subsistence users or remove it from the EAs.

Discussion:

We believe EAs lack sufficient data or provide any analysis to support the following types of statements:

- Hunter OHV use of trails and areas in the Steese highway region has become extremely heavy in the last few years, creating the potential for displacement of caribou from the area and diversion from their migratory path. (White Mountains EA, page 24; Steese EA, page 24)
- Limitation of all OHV users to managed routes would reduce both habitat damage and displacement of caribou. (White Mountains EA, page 24; Steese EA, page 24)
- Heavy hunting pressure in combination with ready access for summer OHV use may reduce use by caribou of these important summer habitats. (White Mountains EA, page 52; Steese EA, page 46)
- High OHV use is currently impacting lichen habitats (White Mountains EA, page 24; Steese EA, page 24)
- access by non-Federally qualified subsistence users and their harvest success may impact subsistence access to the same resource (White Mountains EA, page 24; Steese EA, page 24)
- This area [Upper Nome Creek Area above the Mount Prindle Campground] has in recent years served as a refugia for caribou from heavy hunting pressure in surrounding areas ((White Mountains EA, page 59)
- Heavy hunting activity can impact caribou movements, migrations, and distribution. (White Mountains EA, page 94, Steese EA, page 89)

Please provide:

- Data and analysis supporting the statements above (we address the radio collar analysis attributed to Mike Sutor, 2020 in a separate comment.
- Information documenting suspected impacts each alternative will have on general hunters, who as acknowledged in the EAs, make up the majority of the hunters in the two TMAs.

- Impacts, or lack of impacts, each alternative may have on moose and Dall sheep hunting should also be included in each EA.

The TMPs both conclude that allowing cross-country OHV access anywhere in the NRA and NCA would increase OHV subsistence use of the NCA (See Section 2.9 Alternative D; Expanded Subsistence OHV Access). No documentation is provided to substantiate this conclusion. The TMPs frequently acknowledges that subsistence use is low in the NCA, likely because of its popularity with general hunters. Please provide information supporting this conclusion or remove it from the EA.

The Proposed TMPs Do Not Provide Adequate Information to Meet ANILCA Closure Requirements or to Document that Significant Effects Are Occurring in the TMAs.

Issue:

- The EAs fail to document:
 - actual impacts to resource values in the area.
 - how the proposed changes under each alternative will impact other recreational uses (e.g., hunting) not just motorized uses
- The EAs do not identify how BLM will monitor use and impacts and the process they will use to do so.
- The EAs fail to include guidance from their 2009 Alaska Travel Management Guide.
- The EAs base many of its findings on potentials, rather than actual impacts and contain no indication of concerns caused by extensive public use, site-specific resource concerns or user conflicts to justify the proposed restrictions. The TMPs often refer to “potential damage,” “potential impacts” or “could impact” or “could indirectly impact” rather than statements that clarify the site-specific resource impacts that are leading BLM to close trails in specific areas.

Proposed Resolution:

- The EAs must document that the ANILCA methods of access authorized under Section 1110(a) *will be* detrimental to the resource values of the unit or area before proposing restrictions or closures.
- Each alternative, winter and summer, should outline how the proposed changes to recreational use, not just motorized use, will affect existing uses.
- The EAs should include fully articulate indicators and standards to monitor use and impacts, as well as any associated monitoring process.
- The EAs must be reviewed for consistency with regional guidance in the BLM 2009 Alaska Travel Management Guide.

Discussion:

Congressional direction in ANILCA Sections 811 and 1110 regarding access to federal lands for subsistence purposes and to and within Conservation System Units (CSUs), NRAs, NCAs, and those public lands designated as wilderness study, was to ensure the public and subsistence users have adequate access to Alaska's vast, remote areas and resources and are not burdened by unnecessary and unclear restrictions.

In ANILCA Section 1110(a) Congress directs that *the Secretary shall* (emphasis added) *permit ... the use of snowmachines ..., motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities*. Section 1110(a) also requires that prior to prohibiting such uses, the Secretary shall hold notice and hearings and produce a finding that the use *would be detrimental to the resource values of the unit or area*.

Each of our comment letters to BLM during the EIRMP process reflected the importance of ANILCA's statutory mandates regarding access. In fact, the ANILCA access section was included in the RMP (and replicated in the TMPs) as BLM's express recognition that the NRA, NCA, and wild and scenic rivers in the planning areas are subject to the access provisions in ANILCA, which requires these lands be open to specific methods of motorized and non-motorized access, subject to "reasonable regulation" and could only be restricted under specific circumstances and criteria established in the statute and implementing regulations. Restrictions or closures on ANILCA protected methods of access based on a general "potential" for resource damage circumvents congressional intent in ANILCA.

BLM staff have since gathered large amounts of additional information on the resources in the TMAs, including current routes that are under existing BLM management. The 2009 Alaska Travel Management Guide provides a list that includes many of the routes and trails existing in these two TMPs. These should be clearly called out both in the TMPs' text and on maps. As outlined in the 2009 Alaska Travel Management Guide, current social trails and their locations should also be discussed in the TMPs' text and on relevant maps as it is hard to recognize possible alternative routes based on the current maps.

The TMPs fail to provide specific information outlining the detrimental impacts the proposed uses are having on specific resources impacting the routes/trails BLM has chosen to not carry forward. This route information is both critical to understand and support the routes chosen for designation and maintenance, as well as to help reviewers identify other routes that would facilitate meeting our management responsibilities.

As noted above, this information is also required pursuant to ANILCA. Much of the supporting language in the EAs describe potential effects rather than descriptors of actual or reasonably likely effects. We request all references to "potential effects," "potential damage," "potential impacts" or "could impact" or "could indirectly impact" and similar language be removed from the TMPs and replaced with statements that clarify the site-specific resource impacts that are leading BLM to close trails in specific areas.

We are also concerned the restrictions on summer OHV use will significantly reduce access for general hunting. Despite the fact that many of the so-called social trails connect to adjacent state lands, neither TMP addresses trail connectivity for trails that traverse different land ownerships. In

fact, BLM stated in the August 4, 2021 public meeting that BLM was seeking to keep all trails internal to their existing areas.

As an alternative to closures, the State requests the inclusion of fully articulated indicators and standards to monitor use and impacts, as well as any associated monitoring process. If monitoring identifies areas where standards are not being met, BLM should then – in those site-specific areas – implement management actions to mitigate resource impacts understanding that if any of the proposed actions limit ANILCA protected access, BLM is then required to follow the closure process enacted under ANILCA and specified in regulation at 43 CFR 36.11.

Subsistence Access, ANILCA Section 811

We appreciate that BLM has indicated that any restrictions to subsistence access will be related to documented resource concerns before being implemented via regulation. Since both Alternatives A and D allow unrestricted cross-country travel, while Alternatives B and C limit users to existing routes, it is unclear what resource concerns are the basis for the limits described in Alternatives B and C. There is discussion regarding possible proliferation of social trails and enforcement difficulties but no discussion of the current, on-the-ground issues driving these alternatives. As with ANILCA Section 1110(b) methods of access, ANILCA Section 811 requires specific methods of access, including those “traditional employed” for subsistence activities be allowed, subject to reasonable regulation. BLM committed in the RMP to following the same closure process and criteria identified in National Park Service and US Fish and Wildlife Service’s ANILCA Section 811 implementing regulations. Restrictions or closures on subsistence access for generalized “potential” resource concerns is inconsistent with congressional intent in ANILCA. The TMPs indicate that subsistence use of the areas covered by the two TMP is low; therefore, it seems unlikely that subsistence use needs to be restricted or closed. If carried forward into the final plan, justification consistent with the statute and implementing regulations is required.

Access to Inholdings -- ANILCA 1110(b)

Additional access provisions in ANILCA must also be taken into consideration in this planning process. The following language is from the Alaska Travel Management Guide, page 50: Sections 1110(b) applies to current and future conservation system units (wild and scenic rivers, wilderness areas, congressionally designated national trails), national recreation areas, and national conservation areas.

Section 1110(b) assures inholders ... adequate and feasible access for economic and other purposes.... subject to reasonable regulations... to protect the natural and other values of such lands (see DOI regulations at 43 CFR 36.10).

Please see the additional page specific comments regarding motorboat and airplane use.

Access to inholdings on general BLM lands – ANILCA Section 1323(b)

ANILCA Section 1323(b) also guarantees access to inholdings surrounded by lands within the TMPs (including state lands and waters) that are outside the boundaries of the NRA and NCA. We request the

TMPs reference and consider the potential need for inholder access pursuant to ANILCA Section 1323(b), which provides that:

Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of the Interior may prescribe, the Secretary shall provide such access to non-federally owned land surrounded by public lands managed by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701-82) as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: Provided, that such owner comply with rules and regulations applicable to access across public lands.

Enforcement and Lack of Ability to Enforce New Restrictions

Issue: Existing restrictions in the White Mountains and Steese TMAs are currently difficult for BLM to enforce; unclear how additional restrictions will be enforced or solve issues.

Proposed Resolution: BLM should pause the TMP processes and work with the State and affected user groups to create a user outreach and education program.

Discussion:

ADF&G is concerned current restrictions are not being enforced in many areas and believes that adding additional restrictions without an increase in enforcement capabilities will fail to solve existing and future issues.

A high degree of hunter presence and harvest occurs in the TMP areas, particularly in the Steese NCA. This has been ongoing for many years, yet neither existing enforcement (i.e., off-road vehicle (ORV), off-highway vehicles (ohv), all-terrain vehicle (ATV), or utility vehicle/side by side (UTV) restrictions) nor land degradation issues have changed or been successfully addressed during this time period. We fail to see how adding additional restrictions without a concerted public outreach and education program, or an increase in on the ground enforcement personnel can achieve change.

Members of the public indicated this same concern in the public meetings BLM held for these travel management plans on August 4 and 5, 2021. In these meetings BLM indicated a preference for user outreach and education over enforcement to change user patterns as they only have one ranger covering the two TMP areas.

BLM also indicated concerns with this situation in both EAs,⁸ although no alternative focused on public outreach and education was included in the EAs. If the TMP processes were put on hold, BLM,

⁸ Without adequate enforcement cross-country use will likely increase given the general increase in OHV use, even in areas that are restricted to managed routes only. (p. 61 of the White Mountain EA.)

There may be little practical ability for law enforcement to prohibit non-Federally qualified users from continuing onto routes open only to use by Federally qualified subsistence users, and therefore impacts from both user groups would likely increase over time, and may mirror those discussed for Alternative A. (p. 66 of the White Mountain EA.)

ADF&G, and the potential partnership user groups outlined in the 2009 AK Travel Management Guide – Alaska Outdoor Council, Alaska State Snowmobile Association, Alaska Trails, Alaska Trappers, Rivers Trails and Conservation Assistance Program, could work on public outreach and education programs for the two TMAs.

Failure to Identify All Existing Travel Routes in the TMPs

Issue:

- BLM failed to follow direction specified in the 2009 Alaska Travel Management Guide.
- BLM's trail designations have the potential to impact State regulated hunts in the area and our ability to achieve harvest quotas.

Proposed Resolution:

- The TMPs need to follow direction in BLM's 2009 Alaska Travel Management Guide.
- We request that the TMP Planning Processes be put on hold until information the State would have requested had it been engaged as a cooperating agency can be added into the Draft EAs (e.g., maps of all existing social trails and formal routes in the TMAs, information used to select certain trails for use or closure, information BLM has collected on caribou movement, information BLM has on impacts to lichen in the TMAs, etc.).
- We request all existing trails, including 17(b) trail sand site easements (as well as existing and State asserted easements and RS 2477 rights-of-way) be recognized, mapped, and impacts to the plan assessed as part of these planning processes.

Discussion:

BLM's 2009 Alaska Travel Management Guides states that TMPs should address local travel issues and problems as well as include the criteria they are using to make routes selections; an outline of the process they are using to close and decommission and rehabilitate routes that are repetitive or unnecessary (this includes illegal routes); and shifts in use the TMPs will cause (e.g. user displacement that occurs as a result of changes in OHV designations or route closures). The TMP should identify specific roads, primitive roads and trails that will be available for public and administrative use and guidelines for managing, monitoring, and maintaining the networks. There are numerous unshown trails and offshoots in these TMAs. BLM needs to address how these will be managed.

Providing better information on the existing social trails and formal routes will allow the public to be aware of how BLM is considering the trail they use, this will allow the public to make informed comments on the TMPs. Doing so will this also reduce trespass problems and will assist the public in gaining legal access to public use areas.

We understand BLM undertook a comprehensive route inventory, however this inventory had no input from ADF&G. The final route selections have the potential to cause significant impacts to ADF&G's ability to manage wildlife populations. Information BLM has on impacted lichen and caribou movement will aid ADF&G in its management decisions.

Off-Trail Retrieval of Game

Issue: Clarify ability to use motorized vehicles in retrieving off-trail game.

Proposed Resolution: Allow for off-trail retrieval of game under both TMPs and clarify how it will be implemented and enforced.

Discussion:

The use of motorized vehicles can be a key part of how hunters retrieve downed animals. We support the off-trail retrieval allowance described in Alternative B in the Steese EA, or as described in the Glossary in both EA's Appendix A. However, the TMP's need to outline how BLM will enforce off-trail retrieval. We also request the one (1) mile restriction be removed as it is arbitrary and unenforceable. Entirely prohibiting off trail use for the retrieval of game is not consistent with State GAUs.

Wild and Scenic Rivers – Ensure that TMPs accurately represent the WSRA and ANILCA allowances for WSRs in the TMAs

Issue:

- Recognize that the WSRs in the TMAs are managed according to ANILCA, in addition to the WSR Act and NLCS.
- The Wild and Scenic Rivers Act and ANILCA allow for the designation of trails and areas.

Proposed Resolution:

- Refer to ANILCA wherever river management is discussed and recognize that WSRs in Alaska are also ANILCA CSUs.
- Remove inaccurate statements in the White Mountain TMP that indicate trails are not in accordance with the Wild and Scenic Rivers Act (WSRA).

Discussion:

ANILCA Section 102(4) defines a “conservation system unit” as any unit in *Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems* (emphasis added)

...

The WSRA Section 2(b) states that:

Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated, and administered as one of the following:

- (1) Wild river areas – Those rivers or sections of rivers that are free of impoundments and *generally inaccessible except by trail*, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

As noted above, rivers may be designated as “wild” if they are generally inaccessible by trail. This designation does not preclude designation of trails, particularly if they allow access through the wild and scenic corridor or to and through state waters (or other inholdings) within the corridor. Wild and Scenic Rivers are also CSUs under ANILCA and the access provisions in ANILCA apply, which may include the designation of trails to protect resource values. Statements that say otherwise are inaccurate and must be removed from the TMPs. Any proposed decisions that are based on these inaccurate statements must be re-evaluated by BLM in cooperation with the State.

The TMPs Focus on Unsubstantiated but Anticipated User Conflicts.

Issue: The TMPs make frequent reference to anticipated user conflicts without documenting how those conflicts have been identified.

Proposed Resolution: Provide specific examples or information regarding past, or existing conflicts or remove the discussions from the TMPs and re-evaluate proposed restrictions.

Discussion:

While reducing user conflicts is an appropriate goal, the draft TMPs focus on anticipated conflicts and do not provide specific examples or information regarding past, or existing conflicts. Without that critical information, it is impossible to evaluate the need for restrictions on access.

The current overall low levels of use in both TMAs do not, in general, cause significant adverse effects to the resource values of the areas and thus do not warrant access restrictions. Specific areas where resource damage is occurring should be identified in the TMPs.

In addition to low levels of use, most activities in the planning areas are low impact and occur for a relatively short duration. Hiking, boating, fishing, hunting, trapping, sightseeing and photography are common low impact recreational activities in the TMPs.

We do concur that allowing cross-country travel only for federally qualified subsistence users in Appendix D has the potential to result in conflicts with non-federally qualified users. We also concur that that it will be difficult to enforce.

ANILCA Section 810 Analysis

Issue: The ANILCA Section 810 Analysis fails to recognize that in addition to the subsistence provisions in ANILCA Title VIII, there is an existing regulatory framework in place that protects subsistence resources, or to properly explain the Title VIII provisions.

Proposed Resolution: Recognize the existing regulatory framework which is in place that protects subsistence resources including, e.g., the Clean Water Act and ADF&G Management Authorities.

Discussion:

Overall, the 810 analysis equates access restrictions with resource protection, but it fails to recognize the impacts those restrictions will have on ADF&G's ability to manage the Fortymile Caribou herd. It also fails to analyze the effects of access restrictions on subsistence users. If there is truly concern about the public's ability to subsistence harvest, restricting summer access as proposed in each alternative, will cause further declines in harvest.

The EAs and the 810 Analyses fail to explain that federal subsistence management on public lands is only intended for times of shortage when take must be restricted under Section 804 and is not intended as a replacement for the state system. If the Federal Subsistence Board (FSB) determines it is necessary to implement the priority in ANILCA, rural residents will still have priority over non-rural Alaska residents taking fish and wildlife under state regulation. While allocation decisions by the FSB are an important part of wildlife management in times of shortage, they fit within the larger system of state wildlife management which manages populations across land ownership boundaries using the benefit of ADF&G's store of professional expertise, research, and scientific data.

Page-Specific Comments on the White Mountains TMP EA

Page 5 —1.4 Plan Conformance

The TMPs need to be revised to meet the management guidelines found in BLM's 2009 Alaska Travel Management Guide. The Alaska Travel Management Guide was written to address the many unique challenges Alaska presents and to provide BLM planners with "consistent statewide guidelines for the planning and implementation of the comprehensive travel and transportation management policies and procedures for the myriad of users who enjoy BLM-managed public lands for recreation and depend on them for subsistence harvest and economic development." (Welcome letter to BLM-Alaska's Travel Management Guide). One specific item required is the inventory of existing routes.

Page 6 —1.5 Identification of Issues (also Table 1.5-1)

The Plan fails to consider the impacts the proposed TMAs will have on ADF&G's ability to manage the Fortymile caribou herd and meet its mandate to provide hunting opportunities for state residents. As BLM itself mentions the majority of the lands in the area are federal lands, additional restrictions to existing uses of BLM lands logically leads to the conclusion that hunter density will increase on proximate State lands due to the displacement of users of BLM lands. The interrelated goals of ADF&G and BLM are to ensure sufficient habitat to ensure healthy wildlife populations. The EIRMP demonstrated this with its requirement for BLM and ADF&G to work together on a Habitat Management Plan. As we discussed earlier, the Habitat Management Plan is a critical component that should be focused on prior to the completion of the TMPs.

The Draft TMPs also fail to address potential impacts to existing users. Statutory direction for both units clearly identifies the importance of outdoor recreational use to the units’ purposes. Both EAs need to include impacts to existing users in their analyses.

The primary purpose of the White Mountains NRA is to provide for public outdoor recreation benefits. (ANILCA Section 1312). BLM is also directed in that section to manage for “the continuation of existing uses as will promote, or are compatible with or do not significantly impair public recreation ...”

The Steese NCA management is directed to provide for the immediate and future protection of the lands in Federal ownership within the framework of a program of multiple use and sustained yield for the maintenance of environmental quality. The NLCS provides additional management direction at Section 2002(d)(1) stating that: Nothing in this subtitle enhances, diminishes, or modifies ... [ANILCA]” as well as providing, at Section 2002(d)(2) for State management of fish and resident wildlife under State law and regulations, including the regulation of hunting, fishing, trapping, and recreational shooting. Section (d)(2) also states that nothing in National Landscape Conservation System “shall be construed as limiting access for hunting, fishing, trapping, or recreational shooting.”

Pages 8—2.1 Overview of the White Mountains TMA

While the TMP states that recreation is the main focus of multiple-use management, little discussion is provided about the different recreation experiences BLM is trying to provide with the TMP. For example, in the August 4, 2021 public meeting, questions were asked about BLM’s plans for access for winter fat tire bike use and additional single track trails. The commenter pointed out that Fairbanks has a very active biking community. Staff indicated that the TMP focuses on OHVs since they have more impacts. While we understand that response, the 2009 Alaska Travel Management Guidance stresses the importance of not focusing TMPs on motorized travel.

Pages 8—2.2 Goals, Decisions and Limitations

Please revise the paragraph below as follows:

Aircraft use within the TMA is ~~generally~~ unrestricted, with the following provisions: Minimal clearing of rocks, downed logs, and brush is allowed; ~~construction or formal improvement of landing areas may occur by permit only~~ and use of gravel bars and winter snow areas is allowed to ensure reasonable access is provided for pursuant to ANILCA Section 1110(a).

Statements that ANILCA protected modes of transportation (i.e., non-motorized, snowmobiles and aircraft) will be “generally” allowed, with some that are additionally subject to reasonable “provisions” are inconsistent with ANILCA Sections 1110 and 811, which state specific modes of transportation “shall” be allowed, subject to reasonable regulation. As noted, any restrictions must be implemented in accordance with ANILCA implementing regulations. Therefore, we request all references to “generally” allowed and reasonable “provisions” be removed from the plan and replaced with statements that clarify these uses are allowed pursuant to ANILCA and any subsequent restrictions will be implemented in accordance with the appropriate DOI ANILCA-implementing regulations.

In addition, it is inappropriate to close areas based on statement such as: Impacts to XXXX *generally* increase with increasing levels of OHV use ... areas must show that the use *would be* detrimental to the resource values of the area or *may* cause a significant restriction on subsistence uses.

Page 19 — 2.9 Alternative D (Expanded Subsistence OHV Access)

Please revise the sentence as shown below:

Validly selected lands are not considered federal public lands and so are not available for Federal subsistence use (ANILCA Section 102(3). ;-) ~~and therefore are not available for Federal subsistence use~~

Page 20---2.9 Alternative D and Page 27---3.1.1 Affected Environment

The TMA asserts that many hunts “only require the use of a harvest ticket, which does not entail any potential penalties for non-reporting.”

This is inaccurate, the Harvest Ticket Conditions include a requirement, “All harvest ticket holders must report.” and “a violation of these conditions is a misdemeanor.” The Alaska Board of Game authorized ADF&G to implement penalties for those who fail to report. Penalties for failing to report include being ineligible to receive any permits the following regulatory year and may result in being issued a citation by the Alaska Wildlife Troopers. We request the following revision:

The expected levels of use by Federal subsistence users may be higher than documented in the FEIS (BLM 2016b); ~~many of the hunts do not require a Federal or State registration permit, and only require the use of a harvest ticket, which does not entail any potential penalties for non-reporting. Therefore, participation by Federal users in those hunts would not be recorded. as~~ harvest reporting in remote areas is often poor.

Page 23— 2.11.3 RMZ: Beaver Creek Corridor

As the State owns the navigable waters of Beaver Creek and allows unrestricted motor access, we question the restriction that boats launching from Nome Creek can only launch with a 15 hp motor. While we understand this regulation was finalized in 1997 (48300 Federal Register/Vol 62. No. 178/ Monday, September 15, 1997), we note the regulation prohibits such launch without written authorization from the Northern District Manager. As the State manages the waterway and allows larger motors, BLM should discuss the resource concerns at the Nome Creek launch site with the State. It is inappropriate for BLM to place limits on the size of motors that can be operated in state waters, even if they are launching from BLM corridor lands.

Page 23 —2.11.3.1 Alternatives Discussion

Please remove the following language to clarify airboats are allowed on State-owned navigable waterways, including gravel bars and areas with vegetated cover. BLM has no authority over state owned navigable waters, per the Sturgeon decision.

~~Under Alternatives B, C, and D, no overland travel would be allowed by airboats, including gravel bars or areas with vegetative cover.~~

Page 44— 3.4.2.2.1 Winter OHV Use

Please revise the following sentence to indicate that snowmachines are allowed:

Snowmachines weighing 1,000 pounds curb weight and less are ~~generally~~ allowed throughout the TMA during winter months except in RNAs ...

Page 49— 3.5 Wildlife, Special Status Wildlife, and Migratory Bird Species

Please add the following as the second paragraph of this Section:

ADF&G is the primary agency responsible for management of use and conservation of fish and wildlife resources on Bureau land; and is the primary agency responsible for policy development and management direction relating to fish and wildlife resource on State and Bureau lands, pursuant to applicable State and Federal Laws.

Page 51 to 54— 3.5 .1.4. Special Status Species

This subheading should be changed to “Priority Species” as there are no species in the TMA that meet BLM Special Status definition. The species/habitat found under this subheading include caribou, Dall sheep, moose, and ungulate mineral licks.

In addition, this is another example where the failure to include the State as a cooperating agency resulted in inaccurate or incomplete information. As the manager of the State’s wildlife, we should have been consulted and allowed to review the information provided on specific wildlife species. We do not agree with the following statement on page 52: *Heavy hunting pressure in combination with ready access for summer OHV use may reduce use by caribou of these important summer habitats.* It is unclear what information was used to reach that conclusion.

“Herriges” is cited as the primary cited source for wildlife information. We are confused as to why ADF&G staff are not cited and identified as the primary source of wildlife information, and more specifically, that the BLM did not specifically indicate that it is their responsibility to secure wildlife/biological assessments and information from ADF&G, the managers of the State’s wildlife”.

To properly cite personal communication, the name of the BLM staff contact and the name of the local contact need to be identified, as well as the date of contact and the mode of communication.

Page 74 and 75—3.10.2 Environmental Consequences

Please provide supporting information for the following statements or remove them from the TMP:

- The demand for recreational use and recreational visits would increase by ten to fifteen percent over the life of the TMP, due to general population increases and increases in recreation-related

technology, leading to increased resource damage and conflicts among recreation users. Anticipated increases would occur for both non-motorized and motorized activities.

- Changes in OHV design and technology would continue, enabling OHV users to range into areas that were once thought to be inaccessible. Side-by-side OHV and ATV/UTV use is rising and is expected to continue for hunting and general travel. While use is currently rising in the TMA, ADF&G anticipates numbers will go down over time as the Fortymile caribou herd population decreases.

Page 85—3.13.2.2.2 Wild and Scenic Rivers

Please delete the following sentence as snowmachine use is allowed on frozen WSRs pursuant to ANILCA Section 1110(a). Subsistence use of snowmachines and OHVs is allowed under ANILCA Section 811(b).

~~OHV use may directly impact outstandingly remarkable scenic values with the development of winter travel routes.~~

Appendices

Appendices need to be searched to ensure consistency among each other and text of EA.

Appendix D – Without an ability to link the acreage to specific trails, these Tables are useful only on a global basis.

Page-Specific Comments on the Steese NCA TMP EA

Page 4 – 2.2 Goals, Decisions, and Limitation

Please revise the paragraph below as follows:

Aircraft use within the TMA is ~~generally~~ unrestricted, with the following provisions: Minimal clearing of rocks, downed logs, and brush is allowed; ~~construction or formal improvement of landing areas may occur by permit only~~ and use of gravel bars and winter snow areas is allowed to ensure reasonable access pursuant to ANILCA Section 1110(a).

Page 17 et seq. – 2.9 Alternative D (Expanded Subsistence OHV Access)

Please include a description of State-authorized subsistence activities in the NCA and how these interact with Federally authorized subsistence activities.

Page 18---2.9 Alternative D and Page 22---3.1.1 Affected Environment

The TMA asserts that many hunts “only require the use of a harvest ticket, which does not entail any potential penalties for non-reporting.”

This is inaccurate, the Harvest Ticket Conditions include a requirement, “All harvest ticket holders must report” and “a violation of these conditions is a misdemeanor.” The Alaska Board of Game authorized ADF&G to implement penalties for those who fail to report. Penalties for failing to report include being ineligible to receive any permits the following regulatory year and may result in being issued a citation by the Alaska Wildlife Troopers.

We request the following revision:

The expected levels of use by Federal subsistence users may be higher than documented in the FEIS (BLM 2016b); ~~many of the hunts do not require a Federal or State registration permit, and only require the use of a harvest ticket, which does not entail any potential penalties for non-reporting. Therefore, participation by Federal users in those hunts would not be recorded.~~ Harvest reporting in remote areas is often poor.

Page 24, 3.1.2 Environmental Consequences

Please include information to document where high levels of OHV use are currently impacting lichen habitats, as described in the statement below, and that high hunter density disrupts caribou movements and migrations as referenced below. This “migration corridor” is not identified on any of the Figures included in Appendix C. Reference is made to “Access to the historical calving grounds requires migration across a zone of State land along the Steese Highway...” (page 89)

The impacts from high levels of OHV use in the Steese NCA for caribou harvest will increase impacts to lichen habitats and high hunter density can result in disruption of caribou movements and migration and may impact caribou populations and availability. The ability to access the area by non-Federally qualified subsistence users and harvest success may impact subsistence access to the same resource.

Page 24, 3.1.2 Environmental Consequences

Please provide the location for the “delineated [caribou] migration corridor” referenced in the sentence below, as well as information documenting how it was delineated and by whom.

Within the delineated [caribou] migration corridor, limitation of all OHV users to managed routes would reduce both habitat damage and displacement of caribou. This would, however, limit OHV access by subsistence users.

Page 45-48 – 3.5.1.4 Special Status Species

Caribou and Dall sheep do not meet BLM’s criteria as special status species. Please change the title to “Priority Species.”

In addition, this is another example where the failure to include us as a cooperating agency is problematic. As the manager of the State’s wildlife, we should have been consulted and allowed to review the information provided on specific wildlife species. We do not agree with the following statement on page 52: *Heavy hunting pressure in combination with ready access for summer OHV use*

may reduce use by caribou of these important summer habitats. It is unclear what information was used to reach that conclusion.

“Herriges” is cited as the primary cited source for wildlife information. We are confused as to why ADF&G staff are not cited and identified as the primary source of wildlife information, and more specifically, that the BLM did not specifically indicate that it is their responsibility to secure wildlife/biological assessments and information from the ADF&G, the managers of the State’s wildlife.”

To properly cite personal communication, the name of the BLM staff contact and the name of the local contact need to be identified as well as the date of contact and the mode of communication.

Page 89, 4.9.3 Potential Cumulative Effects to Caribou

The description below does not correlate with ADF&G data and serves as further proof that BLM needs to pause this TMP effort and consult with our staff on caribou information. Please see general comment on this statement.

Heavy hunting activity can impact caribou movements, migrations, and distribution. High harvest quotas since 2017 have resulted in very high levels of hunter activity in the Steese Highway region. A recent analysis of radio collared Fortymile caribou (Mike Sutor, 2020) showed that caribou used areas near secondary roads less than more distant areas and were less likely to cross them. This effect was stronger during days open to hunting. In the summer and fall of 2020, observations of tracks of satellite-collared caribou showed that a small proportion of attempts to cross north of the Steese Highway were successful (Herriges, 2021) during both open and closed hunting periods.

Appendices

The Appendices need to be searched to ensure consistency among each other and text of EA. Regarding Appendix D – without an ability to link the acreage to specific trails, waterways, etc. the tables are useful only on a global basis.

Thank you for this opportunity to comment. While we are dismayed that BLM did not proactively engage with State agencies as cooperators earlier in the planning process, we intend to commit all available resources to work with BLM moving forward. Please contact me at susan.magee@alaska.gov if you have any questions and for follow up discussions.

Sincerely,



Susan Magee
State ANILCA Program Coordinator

Enclosures

cc: Tom Heinlein, BLM Acting State Director
Kip Knudson, Office of the Governor, Washington DC
Eric Yeager, BLM Recreation Planner