**STATE OF ALASKA**
**DEPARTMENT OF NATURAL RESOURCES**
**DIVISION OF MINING, LAND AND WATER**
**NORTHERN REGION**
**Extension of 2009 Amended Administrative Decision**
**Rex Trail – RST 119, ADL 412566, ADL 401880**
**2015 Extension**

## Management Action

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Northern Region Lands Section is extending the date of the 2009 Amended Decision to issue permits for certain rubber tracked vehicles heavier than 1500 lbs to travel on the Eastern Rex Trail. This extension constitutes a change from the 2009 Amended Decision by implementing for another year the Rex Trail over-the-counter permit applications in order to issue permits to certain tracked vehicles heavier than 1500 lbs for the 2015 hunting season.

To be approved for a fall travel permit, off-road vehicles heavier than 1500 lbs must be equipped with rubber tracks, be Nodwell 110-sized or smaller, and may not pull wheeled or skid trailers. Individuals who wish to obtain a permit for the 2015 season must apply to DNR. This extension will be implemented on August 29, 2015, and will remain in effect until April 15, 2016. All conditions as noted in the August 25, 2009 Amended Decision, and all other conditions as noted in the original May 12, 2008 Administrative Decision remain in effect.

Vehicles (tracked or wheeled) weighing less than 1500 lbs dry weight will still be allowed to travel as allowed under 11 AAC 96.020-.025 without the need for a permit.

## Authority

This decision and these permits are being adjudicated pursuant to Alaska Statute 38.05.035(a) (powers and duties of the director), and Alaska Administrative Code 11 AAC 51 (easement management), Alaska Administrative Code 11 AAC 96.010 (uses requiring a permit), AS 38.05.850 (Permits), and Alaska Administrative Code 11 AAC 05.010 (fees).

## Administrative Record

The administrative record for the proposed action consists of case files RST 119, ADL 401880 public easement, ADL 412566 public easement, the Yukon Tanana Area Plan, and the Rex Trail casefile.

The scope of this decision is limited to extending and/or amending the August 25, 2009 Amended Decision. The area affected by this decision is limited to the portion of the eastern Rex trail –which is unimproved and essentially a trail - between the intersection with ADL 415819, Southwind Homestead Access, and the southern boundary of Fort Wainwright near the Wood River.

## Background and Discussion

On May 12, 2008, DNR, DMLW Northern Region issued a management decision temporarily restricting summer and fall motorized travel on a portion of the Rex Trail (RST 119, ADL 412566 and ADL 401880) to vehicles with a curb weight of 1500 lbs or less, in order to slow the degradation of the trail, reduce the risks to public safety during trail travel, and to reduce the potential for more significant access and resource damage. The decision noted the overall management goal is to ensure that the Rex Trail remains viable for long-term general access opportunities. This original decision also noted that DNR recognizes the need for more comprehensive evaluation of trail conditions, the potential feasibility of trail upgrades or realignments, and th relative impacts caused by different types of vehicles, in order to evaluate long-term management options to meet this goal.

On August 25, 2009, the original decision was amended, allowing for issuance of permits to rubber tracked vehicles from 1500 lbs up to and including Nodwell RN 110 or similar sized vehicles during the fall 2009 hunting season. This amendment was designed to facilitate a wider range of transportation options for fall hunting, and also to allow DNR to learn more about vehicle use patterns and to monitor impacts of this additional use. To further this goal, DNR created a special streamlined Rex Trail permit application for main stem trail travel, established 10 monitoring sites and began to collect and evaluate baseline data at each site for trail condition, rutting occurrence and depth, and braiding. Measurements were collected both before and after the fall moose season; review and analysis of the accumulated data is ongoing, and is expected to be completed by fall 2016.

The 2009 amended decision specified permit issuance for the 2009 hunting season only. The decision was extended annually in 2010 through 2014 to issue permits through those respective hunting seasons to enable continued offering of the specialized Rex over-the-counter (OTC) permits and continued monitoring of the test plots in order to provide more comprehensive data about trail conditions over time.

While streamlined permitting and baseline trail condition monitoring represent an interim approach to address access and the trail in its current unimproved condition, user groups and private citizens have also recommended specific or general proposals to improve portions of the Rex Trail, in order to facilitate better access conditions for the widest possible variety of vehicles. The eastern Rex Trail crosses variable soil and vegetation types, and different methods would likely need to be employed along the trail. The Division determined that more specific information, such as a prescription report to evaluate conditions and feasibility would be needed before extensive time, money and effort were expended by the state or others on trail reroutes or maintenance. In 2011, the Alaska State Legislature designated limited funding for DNR land stewardship management, including the Rex Trail. On July 26, 2011, DNR-DMLW applied for a Recreational Trails Program grant through the Alaska State Trails Program to obtain further funding to evaluate the feasibility of potential trail upgrades and/or reroutes, and to implement clearly beneficial upgrades or reroutes identified during that evaluation. DNR-DMLW's grant application was approved for $100,000.

In 2013, DNR-DMLW contracted with Interior Trails to produce prescription reports for four discrete sections of the Rex Trail, each approximately ¼ to ½-mile in length and within the first nine miles of the trail. The prescription report evaluated trail conditions at four representative segments on the Rex Trail and provided four improvement prescriptions for each segment, two for the current level of use (ATV's less than 1,500 lbs and rubber tracked vehicles less than ~25,000 lbs which are authorized for fall trail travel via OTC permit, as per the 2009 amended decision) and two for an expanded level of use including the previously mentioned uses plus the use of wheeled vehicles less than 15,000 lbs(which are seasonally restricted to winter travel only, per the 2008 decision and 2009 amended decision).

In 2014, DNR issued an informal request for proposal and contracted with Gillmore Construction for construction of a small vehicle reroute on the fourth prescription site. The small vehicle reroute created an approximately half-mile bypass route for ATV's using a ditch and elevate with gravel cap technique, while leaving the main trail available for larger vehicles. DNR-DMLW chose to construct Site 4 for a variety of reasons, including less extensive wetland permitting requirements, cost of route construction, and availability of on-site gravel. Construction was originally planned to occur in July and August, 2014. However, record rainfall in June followed by near-record rainfall in July resulted in practically impassable trail conditions preventing summer construction; the contract was extended and construction was completed in the spring of 2015. This small vehicle reroute will serve as a test site to evaluate the feasibility and effectiveness of this method of construction and travel segregation of currently used large vehicles from currently used smaller vehicles.

In the summer of 2015, DNR was approached by the Alaska Department of Fish and Game about the possible use of existing federal Pittman-Robertson (P-R) funds for projects that would increase or preserve hunter access. DNR identified the Rex Trail as a high priority project that appeared to meet the criteria for the P-R funds; specifically, DNR has applied for P-R funds to supplement existing state capital

improvement funds in order to construct a re-route around Seven Mile Lake, one of the worst spots on the trail, and one of the few spots where the trail is on private property. If funding is obtained, DNR will pursue relocating and hardening a route across state land that will allow for use by a wider variety of vehicle types, while bypassing the existing extensively damaged (and sometimes impassable) portion of the trail which traverses private property. That should allow large and small vehicles to both bypass the existing extensively damaged (and at times nearly impassible) portion of the trail, as well as re-route the trail off of the private property.

The monitoring plot data collection and analysis was created as a way to gather baseline data to gauge the change in condition of the unimproved larger trail over time. Prescription report/ trail treatment test sites were designed to address feasibility and cost of active trail improvements that could support a wide variety of vehicles types and inform other possible fixes to other sections of the trail. DNR has undertaken these two different but complementary efforts to better understand the complex trail environment and evaluate long-term trail management options. The 2009 amended decision and subsequent extensions represent an interim approach to balance the intensive fall season use with timely permitting and resource and access protection, while trail conditions and upgrade option feasibility are being evaluated.

**Public Notice**

Courtesy Public Notice regarding the proposed 2015 extension was conducted from 7/17/2015 through 7/31/2015, and was posted to the Public Notice website, emailed to 85 contacts, and mailed to an additional 50 contacts. These contacts comprise the list of groups and individuals who indicated they wished to receive Rex Trail updates through the Rex Trail website. Two comments were received.

Alaska Outdoor Council – Rod Arno, Executive Director: Mr. Arno commented that extension of the 2009 Rex Trail restrictions for the purpose of collecting additional data is not in the public interest, and that all trail restrictions should be lifted.. The following specific comments/concerns were expressed:

- The original DNR rationale for closing the trail was protection of public safety and the utility of the trail. Mr. Arno further stated that after 5 years, DNR has done nothing to improve or define safety. There are more challenging state lands on which ORV's operate, and yet these lands are not shut down and locked up.
- AOC comments that DNR refuses to establish transparent trail condition metrics and goals, that DNR needs to set clear standards and examples of acceptable levels of use, and what DNR sees as acceptable trail conditions. The public needs to know why they can't use their land.
- The collected data has generated a very low return on investment of public dollars, and should be stopped and the existing data analyzed.
- All trail use restrictions should be lifted until data collected is aggregated and formatted in a manner that is useful to both the public and land managers. The data may show that off-road vehicle use could be allowed on a sustainable basis.

*DNR Response*

*Extension of 2009 restrictions are not in the public interest :* Although the comments submitted stated they opposed the proposed extension of the 2009 Rex Trail *restrictions*, we clarify that the 2009 amended administrative decision did not consist entirely of restrictions. While the 2009 amendment did retain the seasonal restriction on non-winter use and issuance of permits for wheeled vehicles over 1500 lbs., it lifted the 2008 restriction on trail use and issuance of permits for rubber-tracked vehicles larger than 1500 lbs (which includes many of the commonly used large off-road ORV's, such as Nodwells, Hagglund SUSV, and Bombardiers). In addition, the 2009 amendment instituted a special over-the-counter (OTC) application for fall season trail use by these vehicles; These 2-page combined application/permits cost $100, have no bonding required, and can often be approved and issued the same day the application is received. This permitting system is tailored for the Rex trail, and is faster, cheaper, and more readily available in non-winter conditions than is typical for other permafrost-rich state lands in the Alaskan interior. Typically off-road travel permits in such conditions are limited to winter travel, when frozen

conditions reduce the potential for resource and access route damage. A typical summer cross country travel permit has a multi-page application, $100 application fee, may take 60-90 days to process, requires specific route locations and end point map, and requires a performance guarantee of a minimum of $1000. Since 2009, 78 Rex trail OTC permits have been issued. The Northern Regional Office has received many inquiries from individuals wanting to get Rex OTC permits for the hunt season which opens September 1st. Extending the 2009 admnistrative decision as proposed during recent public notice would allow for issuance of the streamlined OTC permits, and ensure that interested persons will be able to legally travel the trail.

Additionally, as noted in the Background section, the 2009 amended decision and subsequent extensions represent an interim approach to balance the intensive fall season use with timely permitting and limited seasonal restrictions for resource and access protection, while trail conditions and upgrade option feasibility are being evaluated. Given the extensive public involvement and interest by those both in support and in opposition to the 2008 and 2009 decisions, DNR would find it appropriate to provide a revised public notice prior to proposing or deciding to lift those restricrtions, and would anticipate public comment to be received and subsequently need to be addressed. This process would take a significant amount of time, could not be accomplished prior to September 1st, and could likely not be completed prior to the close of this year's general hunting season when most hunting use of the Rex Trail occurs. Discarding or changing the currently proposed OTC permitting in time to accommodate the 2015 fall hunting season would not be possible, reducing legal travel opportunities for operators of larged tracked vehicles wishing to use the trail this fall. DNR believes that proposing to lift the limited seasonal restirctions emplaced by the 2009 amended decision without prior public notice would not reflect responsible public process. More specific response to comments regarding lifting of all restrictions and data analysis will be addressed separately.

*After 5 years, DNR has done nothing to improve or define safety; other state lands are more challenging yet they are not shut down or locked up*: DNR concurs that the rationale for the permitting restrictions emplaced by the 2008 Administrative Decision were driven, in part, by safety concerns. The eastern Rex trail was originally built and used for winter travel to access mining properties, and though the use and methods of travel have greatly expanded over time, it is still vital winter access for miners, private property owners, hunters and trappers. The initial decision indicated that excessive rutting (in excess of 3 feet in several locations) with ruts running both parallel to and across the direction of travel (intermittently and in some cases, not clearly visible) created unpredictable travel conditions and tipping or roll-over hazard for winter users, particularly in the low snowfall environment of Interior Alaska where there is often not enough snowfall to fill these ruts and create a smoother winter travel surface. While there are many other challenging unimproved trails in Alasksa, the original Rex Trail decision noted that DNR determined that the convergence of so many multiple uses and dependencies on the Rex trail, repeated reports of safety and access degradation, and DNR observations/preliminary assesments warranted active management of this this trail system. The decision clearly acknowledged that there are no simple or quick "fixes" to the issues; however, DNR has undertaken efforts to address them. In order to slow access degradation, reduce the noted safety risks, and reduce the potential for further resource damage, DNR has implemented limited seasonal restrictions, permitting, baseline trail monitoring, and trail improvement test projects (see Background section). While data analysis is not yet completed and trail improvement test projects are still ongoing, anecdotal observations from annual winter inspections of the trail indicate conditions in some areas of the trail are less deeply rutted, and safer now than they were prior to 2008. Since limited restrictions and permitting has been implemented, DNR has received fewer public reports about deep rutting on the trail.

While the 2009 amendment did retain the seasonal restriction on non-winter use and issuance of permits for wheeled vehicles over 1500 lbs., and imposes specific requirements for large tracked vehicle permits, DNR does not consider these limited warm season restrictions to constitute a categorical "shut down" or "lock-up" of the trail or state lands. Large vehicles of all types can apply for and are routinely issued permits for winter travel both on and off the trail. Certain large tracked vehicles can obtain OTC permits for warm-season Rex trail travel. Under the current Rex Trail management, and as per DNR regulation 11 AAC 020-025, off-road vehicles 1500 lbs and less may travel on and off the trail year round without

requirement for a permit. Though not every type of vehicle can travel everywhere at all times, state land is not locked up.

*DNR refuses to establish transparent trail condition metrics and goals, needs to set clear standards and examples of acceptable levels of use, and what DNR sees as acceptable trail conditions*: DNR acknowledges and understands the desire for clear, straightforward metrics for acceptable trail condition, and specific standards of acceptable use or impacts; however, trail conditions and sensitivity to damage vary widely between individual trails, and even portions of the same trail. On multiple-use trails, any particular level or type of use may cause little impact to one trail or given section of a particular trail, but a great deal of impact to others, disproportially affecting certain user groups much more than others. Per state constitution and law, DNR must manage for multiple use, thus it is difficult to simply define or prescribe with uniform or specific metrics "acceptable levels of use" generally for trails on State land; this is particularly true of the Rex trail, where an incredibly wide range of conditions and disparate user groups are all present and dependent on the trail for access. Given this level of complexity, DNR has taken the approach that long-term Rex trail management should address acceptable impacts to multiple use accessibility (and resource impacts on surrounding landscape), rather than defining one acceptable level or type of use.

DNR is working to determine more specific metrics for levels of use or trail condition which can most practically and reasonably support long-term multiple-use access on the trail and surrounding landscape. We believe that baseline trail information, complemented by trail prescription report and trail improvement test site information can help to inform those metrics. Analysis of baseline data collected thus far is underway and is expected to be complete prior to the 2016 fall hunting season. Trail improvement feasibility projects are currently underway (see additional description below). DNR believes that establishing final metrics or permanent management determinations before this information can be more fully compiled and analyzed would be premature. In the interim, DNR's proposed extention of the 2009 amended decision (over-the-counter permitting and limited seasonal restrictions) attempts to reduce the potential for more access degradation, and balance the intensive fall season use with timely permitting and resource and access protection.

*Prescription report/trail improvement test sites*: Local reports as well as DNR observations and preliminary site assesments indicated that the Rex Trail was unable to support either the level of use or changing types of use seen in the mid to late 2000s. Some organizations and private citizens have expressed support for or recommended specific or general proposals to improve portions of the Rex Trail, in order to facilitate better access conditions for the widest possible variety of vehicles. The eastern Rex Trail crosses variable soil and vegetation types, and different methods would likely need to be employed along the trail. DNR could not readily locate any research, examples, or direct precedent for trail treatments which closely correspond to the situation and conditions of the eastern Rex trail (intensive, simultaneous, all-season use of many different vehicle types on an already-degraded unimproved trail). As such, DNR sought outside expertise in the form of a narrowly tailored prescription report which identified 4 segments of trail and asked what, if anything needed to be done to facilitate warm-season use by ATV's, rubber tracked rigs up to Nodwell RN 110 size, and large wheeled vehicles up to 15,000 lbs, without significant degradation (including rutting in excess of 1 foot, and additional braiding) for a period of 5-10 years. Winter travel with small vehicles and heavy mining equipment was factored into the assessment. This report recommended treatement for all 4 sites, even for the then -existing use of ATV's and large tracked vehicles to accomidate sustained access. Options for recommended trail treatment were provided. DNR notes that there are segments of trail that can and do support the existing use, and likely could support larger wheeled vehicles, without experiencing significant degradation; however we must manage the trail overall, and not by discontinuous segments without ready access between these more resilient segments.

Following this report, DNR chose to construct (via contractor) a pilot project small vehicle reroute as described in the Background section. This reroute would allow smaller ATV's to bypass a portion of the trail that the report indicated could continue to support large vehicle use; the braiding in this section was primarily a result of water depth forcing ATV's out of the main stem of the Rex Trail. This construction was completed in spring of 2015, and is open for small vehicle travel. DNR hopes that future monitoring

will indicate this treatment provides an improved route for small vehicles, stabilized this section of the trail, and is a viable treatment option elsewhere along the trail where similar conditions exist. We also hope to monitor the main stem section which will continue to be used by large tracked vehicles, to see if the condition changes after segregation of currently used vehicle types. If we were to change permitting and restriction methods this season, the information would be less useful for comparison to past years and less useful for comparison if additional vehicle types are authorized in the future.

*Collected data has generated a very low return on investment of public dollars, and should be stopped and the existing data analyzed:* DNR acknowledges that the timeline of data collection and analysis has been perceived as slow, and agree that we must analiyze the existing data and package it so that it's useful for informing the public and informing future decisions. Analysis of monitoring data has begun, and is expected to be completed prior to the 2016 fall hunting season. DNR believes, however, that data collection should continue, at least through the 2015/2016 season. The 10 plots established in 2009 were designed for ongoing data collection over a long term, with the idea that we would be establishing a baseline data set for the trail. Many years of data are required to be able to make comparisons between sampling periods and years, especially in a highly dynamic system such as the Rex trail. Many different factors could potentially influence trail conditions, including precipitation patterns, vehicle type, use, and frequency of use, wildfires, and soil characteristics. After six seasons of data collection, we now have an adequate data set to represent the varying conditions over time which exist in this area. complete the process of data review, analysis, and initial baseline reporting. Additionally, the data set is now adequate that, when combined with continued data collection in trail improvement test sites treatment areas (i.e. trail alteration projects, changing levels or types of use, etc.) we could potentially compare impacts and draw valid conclusions about the effectiveness of that treatment.

*All trail use restrictions should be lifted until data collected has been made useful to the public and land managers*: DNR agrees that we must analyse the existing data and prepare/report it in a useful manner, but we do not believe that the restrictions and provisions of the 2009 amended decision should be stopped in 2015, nor should "all restrictions" should or could be lifted in 2015.

As noted previously, lifting the existing limited seasonal restrictions and abandoning or modifying the provisions of the existing OTC permitting system implemented via the 2009 amended decision would warrant prior public notice and public process which can not be accomplished in time to facilitate any form of large vehicle travel on the Rex trail for the upcoming fall hunting season. Analysis of baseline data collected thus far is underway and is expected to be complete prior to the 2016 fall hunting season. Trail improvement feasibility projects are currently underway. Both DNR and AOC agree that the trail and use data collected should be analysed and made useful for informing the public and making management decisions. As noted previously, DNR hopes to monitor the main stem trail section (which will continue to be used by large tracked vehicles, if the 2009 amended decision is extended) adjacent to the small vehicle reroute test site, to see if the condition changes after segregation of currently used vehicle types. If we were to change permitting and restriction methods this season, the information would be less useful for comparison to past years and less useful for comparison if additional vehicle types are authorized in the future.

It is uncertain whether the comment calling for DNR to lift *all* restrictions was intended to also mean that permits should not be required for travel by ORVs larger than 1500 lbs. It is noted that lifting this requirement is beyond the scope of this decision. The requirement for permitting of these vehicles is called for in DNR regulations, as per 11 AAC 96.010 and 11 AAC 96.020. Total removal of the permitting requirement would necessitate a regulation change, which is a separate and extensive public and administrative process to change on a statewide basis, or to change via designataion of a Special Use Area under 11 AAC 96.014 for specific area such as the vicinity of the Rex trail. This process could not be completed prior to close of the general hunting season.

Melvin Grove: Mr. Grove comments that the extension and restriction to use of the Rex trail in the 2009 decision should be amended or cancelled in its entirety. of the 2009 Amended Decision without further amendments outlined below, as well as call for lifting of the existing restrictions. The issues raised in his comments consist of the following:

- DNR should cease data collection and make a final ruling on how state will manage public access for harvesting a public food source. Existing data has not been utilized; nothing has been accomplished except restrictions to use of the trail.
- Mr. Grove questions what the last 6 years of data has shown, and what data is being collected in the motorized areas outside of the Rex trail corridor. he comments that comparing trail conditions before and after the Tatlanika River should easily show which users are causing damage, if any, to public safety or property. Mr. Grove states that trail is much improved beyond the river, as it is now traversed mostly by tracked rigs, while the portion before the Tatlanika River that is heavily used by wheeled ATVs is nearly the same, or worse, than it was in prior to the restrictions.
- DNR should be willing to issue permits or revise the current permit to allow vehicles over 1500 lbs to leave the trail to access state land to the east of the Wood River and north of the Rex Trail, a "fully motorized area". The current restriction is pointless, isn't protecting the area from damage, and causing additional resource damage, as it encourages users to haul and utilize wheeled ATV's which tears up the terrain.

*DNR Response*

*DNR should cease collection of monitoring data and make a final ruling on land management; nothing has been accomplished except for restrictions:* For discussion regarding the analysis of baseline monitoring site data, prescription report and trail improvement test sites, please see previous discussion in DNR response to AOC comments. DNR strongly believes that continued collection and complete analysis of monitoring site and trail improvement test site data is extremely valuable to inform future management of the Rex Trail. DNR believes that making permanent management determinations before this information can be more fully compiled and analyzed would be premature. In the interim, DNR's proposed extention of the 2009 amended decision (over-the-counter permitting and limited seasonal restrictions) attempts to reduce the potential for more access degradation, and balance the intensive fall season use with timely permitting and resource and access protection.

*Comparison of trail conditions before and after the Tatlanika River, data collection in areas outside the trail corridor:* DNR agrees that trail conditions before and after the Tatlanika River –in addition to other sites along the trail corridor -should be compared. DNR established 10 such sites, at points along the trail on both sides of the river. These sites were established along the main trail (and not also on areas beyond the trail) to keep the scope of data collection manageable and to focus on an area of known travel. Now that an adequate data set has been completed, compilation and analysis is ongoing, and DNR will compare data from all plots. However, because we currently have no systematically collected data regarding the number of ATV's using the Rex Trail, we cannot assume that ATV use drops significantly at the Tatlanika River. There are a number of private parcels in the vicinity of the Wood River and Gold King Airstrip; these landowners may have ATV's which they utilize for hunting purposes. Some tracked rig users are transporting ATV's which they utilize for hunting purposes. Additionally, as noted in previous response to AOC comments, many different factors beyond specific vehicle use could potentially influence trail conditions, including precipitation patterns, wildfires, and soil characteristics. Analysis of baseline data is expected to be complete prior to the 2016 fall hunt season.

*Current permit restrictions keeping vehicles larger than 1500 lbs to the main trail are pointless, don't protect resources, cause more damage by encouraging ATV use; DNR should issue permits or modify the current permit system to allow for off trail use of large off-road vehicles within the "fully motorized areas" off the main trail:* It is assumed that Mr. Grove's reference to "the fully motorized areas" refers to ADF&G regulations of methods and means for harvest, as there are not differences in DNR management of motorized uses based on direction from the Rex Trail or Wood River. Based on management of fish and game populations, ADF&G sometimes restricts types of access that can be used for hunting purposes; they are not land managers, and cannot authorize additional access types above and beyond what the landowner allows.

As previously discussed in response to AOC comments, DNR has, and continues to, issue permits for off trail use for many types of large vehiclles when the potential for damage is reduced, typically when winter

conditions are present. The landscape beyond the Rex Trail consists largely of timber stands in the better quality areas, and large wetland meadows. DNR observations of Intensive fall travel with large equipment off trail prior to the 2008 administrative decision indicated that this use was problematic, with large vehicles simply pushing over smaller trees leaving swaths of pitch-poled trees capable of single direction travel only. DNR recognizes that ATV's have the potential to cause damage, however, the type of damage described above was caused by the large vehicles, and is far less likely to be possible with standard ATV's. if operated within the limits established under 11 AAC 96.025, ATV impact has been considered acceptable. Although many persons have claimed that large tracked vehicles make little or no impact on the wetland meadows, large vehicles were observed creating paths of standing water which could lead to eventual thermokarst erosion of these tracks. In one recent example, DNR inspection revealed that there were 3-4 parallel large vehicle tracks; it is assumed that the vehicle operator utilized one track until it was no longer passable so they had to create a new track.

Please see previous discussions in Background section and response to AOC comments regarding timeline and conditions for typical vs Rex OTC permits, necessity for additional public process prior to significant changes to permit system and restrictions, and facilitation of upcoming 2015 fall hunt season travel by large tracked off-road vehicles. As noted previously in this document, the expedited Rex OTC permit system and limited seasonal restrictions emplaced by the 2009 amended decision represent a balance of considerations for intensive travel with large off-road vehicles during the fall hunt with with timely permitting and resource and access protection.

**Discussion**

The 2009 amended decision was designed as an interim management approach to provide limited seasonal restrictions to slow the additional damage to trail access and adjacent resources, facilitate some large vehicle transportation options for fall hunting, and also to allow DNR to learn more about trail conditions, vehicle use patterns and impacts. The monitoring plot data collection and analysis was created as a way to gather baseline data to gauge the change in condition of the unimproved larger trail over time. Prescription report/ trail treatment test sites were designed to address feasibility and cost of active trail improvements that could support a wide variety of vehicles types and inform other possible fixes to other sections of the trail. DNR has undertaken these two different but complementary efforts to better understand the complex trail environment and evaluate long-term trail management options.

Comments submitted during public notice have expressed concern that study and data collection of the Rex Trail has taken a long time, that information is not being used, and call for restrictions both on and off the trail to be lifted until data is compiled and analyzed. DNR acknowledges that the timeline of data collection and analysis has been perceived as slow, and agree that we must analyze the existing data and package it so that it's useful for informing the public and informing future decisions. Analysis of monitoring data has begun, and is expected to be completed prior to the 2016 fall hunting season. DNR believes, however, that data collection should continue, at least through the 2015/2016 season. Trail improvement feasibility projects are currently underway. DNR believes that the information from the baseline data in conjuction with evaluation of trail improvement test sites will be valuable and necessary for making permanent management decisions regarding trail use, and that changing permitting conditions or making permanent management decisions before this information can be more fully compiled and analyzed would be premature, and could compromise evaluation of trail improvement test sites.

The initial 2008 Administrative Decision and subsequent 2009 amendment were the result of an extensive public process. As previously mentioned, it is anticipated that any decision removing these restrictions would also need a robust public process. The initial public process demonstrated that there were numerous interested parties both for and against imposition of the existing restrictions; to forgo a robust public process on removal of the restrictions (or making the restrictions permanent) would disenfranchise interested parties and would not reflect responsible public process. A robust public process could not be completed in time to accommodate the 2015 general fall hunting season (opening September 1st), and a failure to timely extend the 2009 Amended Decision would result in a DNR inability to issue permits to for tracked vehicles over 1500 lbs during the fall 2015 hunting season. Additionally, removing or lifting the

regulatory permitting requirement for ORV's over 1500 lbs would require a regulation change, a significant and separate process which is beyond the scope of this decision.

Extending the 2009 admninistrative decision is the preferred alternative. The expedited Rex OTC permit system and limited seasonal restrictions represent a balance of considerations for travel by certain large tracked off-road vehicles during the fall hunt with timely permitting and resource and access protection, while baseline data analysis is completed and the trail improvement test site is evaluated.

**Decision**

It is the decision of the Northern Region to extend the August 25, 2009 amended Administrative Decision to issue permits for certain rubber tracked vehicles heavier than 1500 lbs to travel on the Eastern Rex Trail. This extension will be implemented on August 29, 2015, and will remain in effect until April 15, 2016. All permit requirements and conditions as noted in the August 25, 2009 Amended Decision, and all other conditions and restrictions as noted in the original May 12, 2008 Administrative Decision, including seasonal restriction on the use of wheeled vehicles heavier than 1500 lbs, remain in effect.

for Dianna Leinberger

Jeanne Proulx
Northern Region Manager
Department of Natural Resources, Division of Mining, Land & Water

8/24/15
Date

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31st calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.