



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Natural Resources**  
OFFICE OF PROJECT MANAGEMENT AND PERMITTING

550 West 7<sup>th</sup> Avenue, Suite 1430  
Anchorage, AK 99501-3561  
Main: 907.269-8690  
Fax: 907-269-5673

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Stacie McIntosh  
Ambler Road SEIS Project Manager  
Bureau of Land Management  
Alaska State Office  
222 West 7th Avenue  
Anchorage, AK 99513

Submitted via email at: [s05mcint@blm.gov](mailto:s05mcint@blm.gov)

**Re: Ambler Road Draft Final Supplemental Environmental Impact Statement**

Dear Ms. McIntosh:

The State of Alaska (State) has reviewed the Bureau of Land Management's (BLM) Ambler Road Draft Final Supplemental Environmental Impact Statement (SEIS), as provided to Cooperating Agencies on February 29, 2024. While BLM is not formally soliciting comments, it was shared that comments and edits would be considered if provided by March 8, 2024. It is under that commitment by BLM that the State is submitting the following additional comments.

Generally speaking, while the State of Alaska appreciates the opportunity to participate as a Cooperating Agency during the SEIS process, it has been a challenging endeavor as we have experienced unreasonably short review periods, which has the unfortunate result of limiting the extent and thoroughness of state agency subject matter expert participation. All government agencies, serving the public interest, must strike a balance between the timeliness of actions and the quality of the work that is being done. While the State feels the Final EIS issued in 2020 struck this balance, BLM's undertaking of the SEIS causes the State concern both in its intent and execution.

Despite requests by the State, BLM continues to withhold its designation of a preferred alternative. At this stage in the analysis, it seems disingenuous for BLM to maintain its position that it has not yet identified its preferred alternative. Instead, it appears that BLM is making a calculated political decision that withholding its preferred alternative, until the release of the Record of Decision, will somehow benefit the agency. Regardless, by withholding this information, the State is unable to narrowly tailor comments to focus on the alternative recommended by BLM and instead must provide detailed comments on all analyzed alternatives. This results in either the State unnecessarily expending resources to provide detailed comments on unlikely alternatives, or the State providing less detail across the full range of alternatives considered. Accordingly, the State continues to object to the lack of a preferred alternative in the administrative draft Final SEIS.

As in previous reviews, the Office of Project Management and Permitting (OPMP) coordinated with the Departments of Natural Resources (DNR), Environmental Conservation (DEC), and Fish and Game (DFG), each of which possesses jurisdiction by law based on the nature or location of activities associated with the Ambler Road Project. The following comments are provided, mainly concerning the additional changes and text added since the public review Draft SEIS. Text from the draft Final SEIS is shown in italics, with comments following.

A. Executive Summary, Page ES-6:

*“Commenters temper this speculative benefit with the likelihood of major harms suffered by the community through the influx of new workers and new environmentally damaging activities to the region. “*

The SEIS should be an objective document. Potential benefits to the communities should not be characterized as “speculative”, while potential harms to the communities are characterized as “major”. It is realistic to acknowledge that there will likely be some combination of both positive and negative effects if the proposed project is developed, and that different parties may weigh or value these differently. The role of a SEIS is to gather information, not to make value judgments through inference.

B. Chapter 1, Introduction, Page 1-5:

*“The U.S. Army Corps of Engineers (USACE) is a cooperating agency for this project and is neither a proponent nor opponent of the project.”*

The State would like to highlight the significance of this statement made by the USACE on federal agency neutrality when reviewing proposed development projects. The draft Final SEIS would benefit from additional review to remove the underlying tone of opposition to the project. Certain sections suffer more from this than others and the SEIS would be a more solid, defensible document if it focused more on neutrality. Notably, the implication that it is even possible for a federal agency to be an “opponent” of a project is concerning – federal agencies should administer their authorities and regulations as guided by law, not prefer or disfavor projects.

C. Chapter 2, Alternatives, Page 2-23

*“Harm mitigation from reclaiming the proposed road is especially subject to this vulnerability as the actual plan for reclamation is not to be provided until the end of the life of the road – after benefits have been reaped and harms, some possibly irreversible, suffered. Commenters have noted a trend in Alaska of extended road use after anticipated life that results in roads becoming effectively permanent and of the possibly permanent effects of roads that cannot be mitigated.”*

If BLM wants to expand on the eventuality of reclamation, they should acknowledge that landowners will have a deciding role in how reclamation occurs on their land, which inherently will be informed largely by those parties’ interests and needs in the future. As the landowners for public lands are the State and U.S. government, those public resources will be managed by public process; the Alaska Native-owned lands will be managed according to the processes of their

Alaska Native owners. Implications that a plan should be developed today should also acknowledge that any such plan may require wholesale modification based on changes in these interests, changing public and Alaska Native land uses, and reclamation technology.

D. Chapter 3, Affected Environment and Environmental Consequences, Page 3-3

*“Determinations regarding the magnitude of impacts take into consideration the largely undeveloped nature of the project area, and other unique characteristics of the project area which may influence the degree to which impacts may be realized, uncertain, controversial, or precedent-setting (see CEQ definition of intensity in 40 CFR 1508.27).”*

The State of Alaska has significant experience with road construction in remote areas. The potential impacts of roads are largely identifiable and should not be characterized as uncertain or precedent-setting. After searching the electronic Code of Federal Regulations (eCFR) for 40 CFR 1508.27, the definition of “intensity” is no longer included, as it was removed from eCFR on 9-14-2020. The SEIS should be revised accordingly.

E. Appendix G, Page 2-16 and 2-17

*“All bridges would be designed to adequately convey at a minimum the 100-year peak flood without damage to the roadway embankment or adjacent channel reaches. Scour characteristics of rivers at bridge crossings would be evaluated to minimize long-term risk to bridge abutments and piers. Minor culverts (3-foot diameter) would be designed to convey at a minimum the 50- or 100-year peak flood depending on site characteristics and perceived risk, as determined on a case-by-case basis. All culverts greater than 3-foot in diameter, including stream simulation (fish passage), moderate, and major culverts, would be designed to convey the 100-year peak flood, at a minimum. The engineer of record for the final design of culvert and bridges will also be responsible for determining appropriate hydrologic methodologies in consideration of the 50-year design life of the structures to account for increasing extreme weather events and the effects of climate change on the hydrologic regime. **Regulatory agencies responsible for issuing new or revised permits authorizing construction of designed culverts and bridges, such as the USACE and ADF&G, will be responsible for ensuring hydrologic methodologies used are appropriate based on available current science and literature.**”*

ADF&G’s regulatory authority over culvert design is specific to protecting fish passage and fish habitat, which while related to hydrologic conveyance, it is not entirely accurate to say ADF&G is responsible for determining appropriate hydrologic methodologies. Additionally, it is not entirely accurate to say the USACE will issue permits authorizing the construction of culverts and bridges. USACE has authority over work impacting navigable waters, which covers the bridges being proposed on the Koyukuk, Kobuk, and John rivers. However, the proposed culverts are on smaller systems, not navigable waters. In these cases, USACE has authority through Section 404 of the Clean Water Act that regulates the placement of dredged or fill material into the waters of the United States but does not regulate culvert design or hydrologic conveyance.

## F. Appendix G, Alternatives Development Memorandum, Page G-42 and G-43

*Communities Route (Tanana-Hughes-Hogatza-Kobuk) - Alternative C<sup>1</sup>**Type: Road Area: Southern Length (miles): 306*

*This alternative would extend from the Elliott Highway across the Yukon River on the same route as the Elliott Highway alternative, but would head northwest toward Hughes, Hogatza, and Kobuk and enter the Ambler Mining District from the south. This alternative was developed based on a scoping comment that named the communities but did not otherwise specify a route. The route was developed at a cursory level based on an overview of aerial photographs and maps, including generalized topography and land status. The route has had no engineering beyond determination that an alignment substantially similar to that shown in this document likely could be constructed in the corridor. However, it was noted that if this alternative advanced through the screening process, additional engineering would be necessary.*

*The Communities Route is longer than most road routes, at 306 miles. Extrapolating from similar routes, it appears it would have reasonable access to construction materials but likely also would cross geotechnically poor soils and would have multiple large and challenging river crossings, including the Yukon River. Its southern route would cross relatively little caribou habitat. The length of the road and some of the construction challenges suggest an intermediate construction cost of approximately \$775 million, plus the cost of a crossing of the Yukon River (approx. \$153 million) (in 2018 dollars). This route would be shorter and less costly than the Elliott Highway route. In addition, public comments during scoping meetings in Shungnak, Kobuk, and Hughes showed some public support for the road and potential benefits to communities that could be derived from it.*

*In considering all criteria, including meeting the purpose and need and environmental factors, BLM is carrying this alternative forward for detailed analysis. This alternative would have logical termini – by connecting into the road and rail network it provides year-round access to existing ports. **Its caribou habitat impacts (5,126 acres) and anadromous stream crossings (7) are among the lowest compared to the other alternatives evaluated (while its overall stream crossings and riparian acreage are among the highest).** This alternative completes a range of reasonable alternatives in that it connects to the Dalton Highway considerably farther south of the proposed alternative (i.e., it spans a full range of geography) and will provide a comparison against the impacts of AIDEA's proposed route.*

*This alternative would have similarities to the proposed route but would start north of the Yukon River and traverse west through the Ray Mountains and then head generally northwest toward Hughes, Hogatza, and Kobuk and enter the Ambler Mining District from the south. This alternative was developed based on scoping comments that named several communities but did not otherwise specify a route.*

*Alternative C is longer than most road routes, at 332 miles. It appears it would have reasonable access to construction materials but likely also would cross geotechnically poor soils and would have multiple large and challenging river crossings. **Its southern route would cross relatively little caribou habitat.** The length of the road and some of the construction challenges suggest an intermediate construction cost of approximately \$775 million (in 2018 dollars). Public comments during scoping meetings in Shungnak, Kobuk, and Hughes showed some public support for the road and potential benefits to communities that could be derived from it.*

<sup>1</sup> Note that going forward, this alternative is known as "Alternative C: Diagonal Route to the Elliott Highway."

*In considering all criteria, including meeting the purpose and need and environmental factors, BLM is carrying this alternative forward for detailed analysis. This alternative would have logical termini – by connecting into the road and rail network it provides year-round access to existing ports. **Its riparian acreage is among the lowest of the alternatives (76) evaluated, while caribou habitat impacts (7,889 acres) and anadromous stream crossings (10) are intermediate among the alternatives evaluated. Overall stream crossings are among the highest compared to the other alternatives evaluated.** For a discussion of the environmental data used see footnote 4. Inclusion of this this alternative in the Supplemental EIS ensures that a full range of reasonable alternatives will be evaluated. This alternative spans a wide-ranging geography in that it connects to the Dalton Highway considerably farther south of AIDEA’s proposed alternatives and would provide a comparison against the impacts of AIDEA’s proposed routes, including disclosing the impacts of an alternative that avoids crossing any Conservation System Units. Moreover, this route would traverse a different physical and ecological environment with a variety of ecotypes; thereby providing a comparison against impacts on the southern foothills of the Brooks Range under alternatives A and B.*

- *Purpose and Need – Route meets the purpose and need. The route has a logical terminus and provides year-round surface transportation access.*
- *Technical Feasibility: The route is technically feasible in terms of constructability, existing technology, access to construction materials, and having an acceptable number of river crossings.*
- *Economic Feasibility (in 2018 dollars): Construction and operation costs would be approximately \$775 million and \$13-16 million per year, respectively, which are considered less favorable than other alternatives.*
- *Practicality and Environmental Factors: Does not rely on speculative assumptions or remotely foreseeable circumstances. **Riparian impacts (76 acres) are the lowest of any alternative and impacts to caribou habitat (7,889 acres) and anadromous fish streams (10) are intermediate among the alternatives evaluated.***
- *Duplication: Route is not duplicative with other alternatives. Spans a wide-ranging geography and different type of environment compared to AIDEA’s proposed routes.*

The State does not support Alternative C, as this significantly longer route will likely have greater impacts upon the fish and wildlife resources through an undeveloped portion of the state; specifically, the Ray Mountain and Hodzana Hills caribou herds, moose, and over 200 additional river crossings. While there are currently 10 known anadromous fish crossings along this route, ADF&G has not conducted the same comprehensive fish surveys along Alternative C that have been conducted along Alternative A and B. Therefore, it is likely that there are more anadromous stream crossings along this route than are currently identified. The 200 additional stream crossings along Alternative C will result in more impacts on resident fish habitat than the other alternatives. Resident fish species such as Northern pike, burbot, whitefish, and Arctic grayling are also important subsistence resources in Interior Alaska. There are higher densities of moose along the Alternative C route, and more stretches of road through wooded habitat. These two factors increase the likelihood of moose being fatally struck by vehicles operating on the road under Alternative C. Additionally, there is some contradictory language in App M, page M-42, that states Alternative C would potentially have a greater overall effect on fish habitat due to its greater length and larger number of bridges and culverts, and also is more likely than Alternatives A and B to impact caribou abundance as it overlaps

with a greater portion of wintering habitat. The late changes BLM has made to the “Communities Route” variant of Alternative C is creating confusion and inconsistency within the document. As an example of the inconsistency, in the SEIS language quoted above, the SEIS says this alternative will impact both the highest and lowest amount of riparian habitat. Due to the relatively limited attention given to this modified version of Alternative C, it seems unlikely assessment of impacts is as accurate as the other, longer-considered alternatives.

The State also raises the issue of naming the Alternative C variant- “the Communities Route”, as it implies it is the preferred alternative of ALL communities in the vicinity of the proposed project. Unless BLM has verified that this is true, a more neutral name should be selected and used in the Final SEIS.

G. Appendix H, Indirect and Cumulative Scenarios, Section 2.3.3, Past and Present Actions, Page H-37

*Adoption of land legislation and land use and plans, including:*

- *Alaska Statehood Act of 1959, resulting in large areas of federal land being transferred to the new state.*
- *Alaska Native Claims Settlement Act (1972), resulting in formal land ownership of large tracts by Alaska Native regional and village corporations.*
- ***ANILCA, resulting in the creation of national parks, national wildlife refuges, wild and scenic rivers, and other conservation system units in the project area and statewide. Additionally, ANILCA identified subsistence as the priority use of fish and wildlife throughout Alaska.***
- *Land and resource management plans by large-scale landowners.*

The SEIS would be remiss to describe ANILCA under Past and Present Actions without balancing the statement by including the access provisions for transportation, utilities, and in-holders, among other Alaska-specific directives, and specifically the Congressional direction to authorize surface transportation to the Ambler Mining District from the Haul Road. The State suggests the following revisions to the text:

- ANILCA, resulting in the creation of national parks, national wildlife refuges, wild and scenic rivers, and other conservation system units in the project area and statewide. ANILCA Section 201(4)(b) provides specific Congressional direction for the project, “Congress finds that there is a need for access for surface transportation purposes across the Western (Kobuk River) unit of the Gates of the Arctic National Preserve (from the Ambler Mining District to the Alaska Pipeline Haul Road) and the Secretary shall permit such access in accordance with the provisions of this subsection.” Additionally, ANILCA identified subsistence as the priority consumptive use of fish and wildlife on federal public lands ~~in~~ throughout Alaska.

H. Appendix I- List of Preparers

***“State of Alaska. The Alaska Department of Natural Resources (ADNR) Office of Project Management and Permitting is serving as the lead state agency to coordinate input from other***

*state agencies, including the Alaska Department of Environmental Conservation (ADEC); Alaska Department of Fish and Game (ADF&G); Alaska Department of Health and Social Services; and Alaska Office of History and Archaeology, State Historic Preservation Officer. ADNR would make land management decisions for ROW access across State-managed lands.”*

Please note the misspelling of Alaska in the first sentence. Additionally, the Department of Health and Social Services has been restructured as two separate departments, the Department of Health and the Department of Family and Community Services since the original EIS was completed. Due to the timing of the organizational changes and the SEIS, the Department of Health did not participate in the coordinated state agency review and should be removed from the list.

#### I. Appendix M: ANILCA 810 Evaluation

Additionally, the State objects to BLM’s lack of a final ANILCA 810 analysis. The EIS was remanded, in part, because the agency perceived the need to amend its subsistence analysis. BLM would be well served by providing the State, with its wildlife management expertise, an opportunity to comment on the final ANILCA 810 analysis. This would allow the State’s agencies to assist in the review and development of the analysis and would result in a more robust and defensible decision.

It is the purpose of an ANILCA Section 810(a)(3) determination to address whether:

- such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the use of public lands,
- the proposed activity will involve the minimal amount of public land necessary to accomplish the purpose of the use, occupancy, or other disposition, and
- reasonable steps to be taken to minimize adverse effects on subsistence uses and resources resulting from such actions.

The final Evaluation should clearly identify the conditions and stipulations being taken to mitigate the Ambler Road’s effects to subsistence uses and resources. These conditions and stipulations can be considered “reasonable steps ... to minimize adverse effects on subsistence uses and resources...” under Section 810(a)(3)(C). Two examples of such conditions and stipulations which were found elsewhere in the SEIS but not listed in the Evaluation include:

- Implementation of the federal subsistence priority by the Federal Subsistence Board to protect the continued viability of fish or wildlife populations, or to continue such uses, in accordance with ANILCA Section 804.
- Management actions taken by ADF&G to ensure sustainable fish and wildlife populations.

Additionally, DNR notes the following inaccuracies remain in the draft Appendix M.

**Page M-2:** *"Three factors are considered when determining if a significant restriction of subsistence uses and needs may result from the proposed action, alternatives, or in the cumulative case, as follows..."*

It is important to distinguish between the requirements of ANILCA Section 810 and those of BLM's instruction manual for ANILCA Section 810 compliance. In this sentence, the requirement was unclear or inadvertently suggests ANILCA requires consideration of these factors. Our suggested edit provides needed clarity.

The State requests the following revisions (underline additions, strikethrough deletions): "BLM's instruction manual for ANILCA Section 810 compliance requires that ~~Three~~ factors are considered when determining if a significant restriction of subsistence uses and needs may result from the proposed action, alternatives, or in the cumulative case, as follows..."

*Page M-2: "ANILCA Section 810 also requires that cumulative impacts be analyzed."*

This is incorrect. ANILCA Section 810 is silent on the analysis of cumulative impacts. It is BLM's 2011 instruction manual for compliance with ANILCA Section 810 that requires cumulative impacts be analyzed as part of a Section 810 analysis.

The State requests the following revisions (underline additions, strikethrough deletions): "BLM's instruction manual for ANILCA Section 810 compliance also requires that cumulative impacts be analyzed."

*Page M-7 "...subsistence impact categories according to Section 810 of ANILCA: resource abundance, resource availability and user access."*

This statement is incorrect. ANILCA Section 810 is silent on impact categories. It is BLM's 2011 instruction manual that defines these three categories.

The State requests the following revisions (underline additions, strikethrough deletions): "These impacts were compared to the three subsistence impact categories ~~according to Section 810 of ANILCA~~ defined in BLM's instruction manual for ANILCA Section 810 compliance: resource abundance, resource availability and user access."

In conclusion, the State provides these comments to assist BLM in improving the accuracy, objectivity, and defensibility of the Final SEIS. Please feel free to reach out with questions or additional information needs.

Sincerely,



Kate Harper  
Associate Director, Office of Project Management and Permitting  
Alaska Department of Natural Resources

CC: State agency review team