

# STATE OF ALASKA

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BLM OHV Strategy  
U.S. Dept. of the Interior  
Bureau of Land Management  
1849 C Street, N.W.  
Washington, D.C. 20240

Dear Sir or Madam:

The State of Alaska has reviewed the Bureau of Land Management's draft national Off-Highway Vehicle (OHV) strategy. We appreciate this opportunity to review the draft, as well as the Bureau's continuing efforts to integrate state and public involvement in planning. The page-specific comments in this letter represent the consolidated views of State of Alaska agencies. Please address them as you finalize the strategy.

#### Page 1, Need For and Purpose of the Strategy

We recommend the Bureau consider adding an additional factor contributing to the growing popularity and impact of OHVs on public lands: manufacturers' and dealers' advertising.

#### Page 2, paragraphs 4 & 5

We appreciate the Bureau's effort to address potential misunderstanding of the term "off-highway vehicle" in the document. Providing this discussion early helps alleviate any confusion throughout the remainder of the document.

#### Page 8, Internal and External Coordination-Management Goal II

OHVs can greatly impact other natural resources besides land, including water and, to a limited extent, air. Damage can be long lasting unless it is mitigated and its causes reduced or eliminated. We recommend that the strategy direct the Bureau to include in its coordination efforts all state agencies whose missions are to develop and protect natural resources that OHV use could adversely impact. We recommend that wherever the strategy calls for coordinating with federal agencies on water issues, it also include state agencies as part of the coordination effort. Moreover, we request that the final strategy be consistent with all existing statutory authorities and the jurisdictions of state water quality agencies.

### Page 9, Easements and Acquisitions

The Bureau's management goal to "...pursue legal access to isolated parcels of public land, where appropriate, to help improve access to public lands" is laudable. However, achieving this goal could be challenging in Alaska, where easements reserved under Section 17(b) of the Alaska Native Claims Settlement Act allow for OHV use, but current management direction and landowner concerns tilt towards removing OHVs from the list of allowed uses. These and other factors that allow for easement adjustment or termination translates to reduced or threatened OHV access in several areas of Alaska. Consequently, it may be appropriate to formulate goals and actions for managing OHVs on these existing easements.

Under Action 1, we request the Bureau include states in efforts to identify access needs.

### Page 9, Education (Public Outreach)

We applaud this management goal and related actions aimed at responsible OHV use and ethics. Successful education is far preferable to limiting or closing areas to protect resources, ensure visitor safety, or reduce user conflicts. The Bureau should continue to prod OHV manufacturers and dealers—whose advertising touts speed, excitement and adventure—to help more in developing responsible user attitudes. A Bureau action item might be to urge manufactures and dealers to include, in advertising or at the time of sale, a creative message about using OHVs on public lands safely and responsibly. Perhaps a warning such as appears on cigarette and alcohol containers might be an appropriate measure.

### Page 10, Environmental Considerations-Management Goal I

Alaska has recently experienced a significant and widespread increase in OHV use. More OHVs transit Alaska land, and technological advances in their design enable them to reach previously inaccessible areas. Numerous potential cumulative impacts to water quality are becoming evident. In cooperation with other agencies, the Alaska Department of Environmental Conservation is just beginning to monitor and quantify these impacts.

As currently drafted, Management Goal I (calling for considering EISs, pursuing interagency coordination, and addressing OHV management as part of planning activities) only indirectly addresses impacts, and does not specifically deal with identifying, monitoring, or mitigating them. While Management Goal II, Action 1 would identify areas where cumulative impacts are occurring, this action applies only to land with ESA issues, and hence would not affect Alaska BLM lands. This action, or a similar one, should apply to all lands where cumulative impacts may be occurring, not just those with ESA issues.

### Page 11, Environmental Considerations-Management Goal II

We request the Bureau add an action requiring State Directors to consult and coordinate with state fish and wildlife agencies when evaluating and delineating lands containing habitat for proposed or listed threatened and endangered species. New technology such as GPS tracking is allowing wildlife researchers to gain higher resolution and improved understanding of range and distribution for many wildlife species. This, in addition to the wealth of existing data state agencies collect, is essential for determining critical habitat for proposed or listed species.

Page 13, Inventory, Planning, and Monitoring

This section should acknowledge states' roles in outlining monitoring plans, and should require the Bureau to adopt existing federal or state data collection and management methods and databases unless they are clearly inappropriate.

Page 15 Permits, Licenses, and Registration

While we applaud the Bureau evaluating permitting individual OHV use in special and sensitive areas, we are concerned about the process for identifying these areas. We request the Bureau add an action to develop an identification process that includes state agencies.

Page 17 Regulatory and Program Management (BLM Regulations and ANILCA)

This section reflects the state's concern that in some areas the Bureau manages in Alaska, the 43 CFR 8340 designation process is inconsistent with the Alaska National Interest Lands Conservation Act (ANILCA) Title XI 43 CFR 36 regulations for prohibiting traditional activities in these areas.

The draft policy statement that the issue involves "subsistence and the use of snowmachines" is incorrect. Title VIII Sec. 811 of ANILCA addresses OHV access for subsistence purposes. The distinction between Sections 811 and 1110(a), given that the two provisions overlap, lies in the extent of the Secretary's authority to restrict access methods. Under Sec. 1110(a), the Secretary may, subject to reasonable regulations, prohibit any method of access for traditional activities (subsistence, recreation, and other pre-ANILCA activities) after finding of detriment, public notice and hearing. In contrast, Sec. 811 ensures access methods for subsistence purposes in areas where subsistence is allowed. These methods may be subject to reasonable regulations.

We applaud the Bureau's OHV policy management goal to achieve regulatory consistency, and resolve conflicts between ANILCA and 43 CFR 8340, and we look forward to reviewing the proposed revision of 43 CFR 8340 in this context.

Page 17 Regulatory and Program Management (Personal Watercraft and Snowmobiles)

Action 1 would provide all field managers with a summary of legal authorities under which they can manage vehicle use. We request that this action also include supplying such a summary to appropriate state officials. We make this request not only to keep state land managers informed, but also to achieve a broader understanding of these authorities.

Page 19 Wilderness Study Areas (General)

We request this section address the issue of future Wilderness Study Areas. While this is not currently an issue on Bureau-managed Alaska lands, future Bureau land planning efforts might review lands suitable for inclusion into the Wilderness system. It is, therefore, practical and desirable to consider ANILCA Wilderness provisions when implementing the OHV policy.

Documentation

The draft strategy contains good documentation of the need to address OHV use on Bureau lands, particularly in wilderness and wilderness study areas. Yet, it is as—or more—important to document what types of and how much OHV use occurs on and adjacent to lands the Bureau manages, and the impacts of that use. While Easements and Acquisitions Action 1 (page 9)

addresses this issue, quantifying current and traditional OHV use on all Bureau-administered land should be a goal in this strategy. Public confidence in data collection and management will be essential for a successful strategy. Good data is particularly necessary in Alaska, where, compared with the lower 48 states, relatively few federal dollars have funded monitoring and data needs, yet OHV use is very widespread. Without baseline data, it will be extremely difficult to distinguish between natural background water and habitat quality and that impacted by OHV use. In the absence of adequate baseline data, the Total Maximum Daily Load rule may lead to restrictions well beyond what original natural conditions would require.

State of Alaska agencies have been working with the Bureau to address OHV impacts. As the Bureau develops and implements this strategy, we urge that close cooperation continue. Thank you again for this review opportunity.

Sincerely,

/s/

Tom Atkinson  
Project Review Coordinator

cc: John Katz, Governor's Office, Washington, D.C.  
John Sisk, Governor's Office, Juneau  
Frank Rue, Commissioner, Department of Fish and Game, Juneau  
Pat Pourchot, Commissioner, Department of Natural Resources, Juneau  
Joseph Perkins, Commissioner, Department of Transportation, Juneau  
Patrick Galvin, Director, DGC, Juneau