

STATE OF ALASKA

OFFICE OF THE GOVERNOR ANILCA IMPLEMENTATION PROGRAM

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Jamie Schmidt
USDA Forest Service
3301 C. Street, Suite 300
Anchorage, Alaska 99503-3998

Dear Ms. Schmidt

The State of Alaska has reviewed the Environmental Assessment (EA) for the Seward to Girdwood Iditarod National Historic Trail. The comments in this letter represent the consolidated views of the State of Alaska agencies.

We request the Forest Service consider establishing trailheads and trail segments outside of Alaska Department of Transportation and Public Facility (ADOT&PF) rights-of-way where possible, as the proposed action could result in potentially significant impacts on ADOT&PF's future transportation facilities and current operations on existing facilities. We are also concerned that establishment of segments of the trail within highway rights-of-way will trigger elevated reviews with the Trail's Conservation System Unit (CSU) status provided under the Alaska National Interest Lands Conservation Act (ANILCA). We request that the decision document provide an analysis of the proposed CSU's potential to impact the ADOT&PF rights-of-way.

Further, the EA states that trail alignment routes not in federal ownership are not subject to ANILCA provisions. While it is clear that ANILCA Section 103(c) excludes State and private lands from CSU's, we note that the ADOT&PF right-of-way within the Chugach National Forest is an easement and the Forest Service owns the fee title to the land under this easement. As such, the ANILCA provisions would apply to those ownership interests retained by the Forest Service. This distinction is not clear in the EA.

We appreciate the recognition that the Service gives to the application of ANILCA to issues involving restrictions on public snowmachine access in Issue 1, page 4. The conflict with the Forest Plan provisions needs to be corrected to replace "conflict" 1 with an explanation that the Forest Plan proposed restrictions cannot be implemented unless and until process requirements under ANILCA 1110(a) directions are completed. Conflict 2 similarly needs to be corrected to recognize that hearings are only part of the process requirements.

Restrictions or closures of access on any part of the Iditarod Trail within the Chugach National Forest are subject to the provisions of the ANILCA Section 1110(a): "the Secretary finds that such use would be detrimental to the resource values of the unit or area." Any closures to these

allowed uses must be based on a finding of quantifiable, tangible resource damage. Restrictions or closures of access protected under ANILCA 1110(a) can not be based on subjective value judgements. While the Forest Service did not adopt regulations specifically implementing ANILCA 1110(a), the Department of the Interior did adopt regulations for all Interior CSUs at 43 CFR Part 36. We urge the Forest Service to closely follow the Interior's regulatory process for a finding of damage, notice or hearing, and adoption of rulemaking contained in 43 CFR Part 36 because those regulations have been tested and upheld by the federal court.

If the Service contemplates routing the trail through state and private lands, care must be taken to consider inholder access protected under ANILCA Section 1110(b) for State or private owner or occupier and their successors in interest.

We request that the final documentation recognize the Alaska Department of Fish and Game's (ADF&G) authority to manage all resident fish and wildlife. The Service and the ADF&G committed in a Master Memorandum of Understanding to coordinate and consult on any issues that affect resident fish and wildlife and their uses. We request this documentation of State authorities in our continuing mission to educate the public.

The State looks forward to working with the Forest Service to establish right-of-way agreements for trailheads that will protect future transportation interests and hopefully avoid additional Section 4(f) involvement for highway improvements. As a National Historic Trail, any ADOT&PF involvement with the facilities would also trigger Section 4(f) of the Department of Transportation Act, recodified as Title 49 of U.S. Code, unless a joint development agreement protecting our interests is in place.

Page Specific Comments

We request that the following comments be addressed in the decision document:

Page 1 - The first paragraph in the Introduction on page 1 references additional analyses not included in the EA. Does this documentation include more detail about existing and future easements that are or will be integral to long term trail protection? The lack of detail about such easements currently hinders review of the alternatives.

Page 4 – 1st paragraph states the implementation of ANILCA 1110(a) is fully described in FSM R10 Supplement 2326. We note the title of this section is "Use of Motorized Equipment or Mechanical Transport in Wilderness." While 2326.1 provides direction for approving uses allowed by ANILCA 1110(a), the focus is on Wilderness, as evidenced in the language stating "Such uses are subject to reasonable regulation to protect natural and other values of wilderness from damage." Since the INHT is not Wilderness, FSM R10 2326 may not be the appropriate process to implement the ANILCA 1110(a) process in non-Wilderness areas. As previously stated, we urge the Forest Service to closely follow the Interior's regulatory process.

Page 42 - please correct the titles for Dan Golden who is an Environmental Analyst, and for Laurie Mulcahy, who is an "Environmental Team Leader."

Page 39 "Cumulative Effects" paragraph – we request the decision document clarify that only some of the State selected areas will be conveyed to the Kenai Peninsula Borough.

Page 39 "Cumulative Effects" paragraph – “right-of-ways” should be “rights of way”. In addition, a DNR public notice and preliminary decision are necessary prior to issuance of rights of way.

Page 39 - add to the "Cumulative Effects" paragraph: "The 1994 DNR "Turnagain Arm Management Plan" also addresses the INHT. Lands along the Crow Pass Trail are state selected and recommended for addition to Chugach State Park by this plan. This plan states that this section of the INHT should be managed consistent with the MOU between BLM and that addresses the INHT."

The figure accessed on the internet that summarizes the southern portion of the Iditarod National Historic Trail (INHT) between Seward and Snow River incorrectly describes ADOT&PF's road improvement project and associated paved bike path. The Department currently has plans for a separated paved pedestrian pathway from MP 0 to Bear Lake fire station; however, between MP 7 and MP 17 there is no separated path proposed and pedestrians will use the highway shoulder.

The figure accessed on the internet that summarizes the Kenai Lake area of the Trail describes the crossing at Snow River as a paved bike path. This segment of highway has widened shoulders, not a separate path.

Please contact Don Perrin at 907-269-7476 if you have any questions regarding these comments.

Sincerely,

signed by Don Perrin for:

Sally Gibert
State ANILCA Implementation Program

cc: Rex Young, DOT/PF
Laurie Mulcahy, DOT/PF
Tina Cunning, ADF&G
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