



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

ANILCA Implementation Program

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Dear Ms. Grey:

The State of Alaska reviewed the Draft Environmental Impact Statement (DEIS) for Runway Safety Area improvements at the Kodiak Airport. The DEIS preferred alternatives expand the Runway Safety Areas (RSA) off the end of runways 07/25 and 18/36. The preferred alternatives require the placement of fill material into intertidal waters of Chiniak Bay. According to the DEIS, the preferred alternatives which provide the greatest safety enhancement while minimizing environmental impacts are:

1. Runway 07/25 Alternative 2, extend the Runway end 25 RSA landmass by 600 feet long and 500 feet wide and install 70 knot Engineer Material Arresting Systems (EMAS), and
2. Runway 18/36 Alternative 7, extend Runway end 36 RSA landmass by 600 feet, shift runway south 240 feet and install 40 knot EMAS on the north end of Runway end 18 on the existing pavement.

The following comments represent the consolidated views of the State's resource agencies. The Alaska Department of Transportation and Public Facilities (ADOT&PF) will be commenting separately.

The Alaska National Interest Lands Conservation Act (ANILCA)

The DEIS indicates the proposed project is located within submerged lands owned by the federal government, which were initially withdrawn from the public domain for the establishment of a naval base and subsequently transferred to the United States Coast Guard (USCG). In 1980, the Alaska National Interest Lands Conservation Act (ANILCA) included the submerged lands within Womens Bay in the Alaska Maritime National Wildlife Refuge. The DEIS states "...the USCG administers the use and occupancy of the land, tidelands, and submerged lands surrounding the Airport, and the Fish and Wildlife Service exercises Refuge management authority over the submerged lands and waters in Chiniak Bay" (Page 4.24-1).

The DEIS does not include an ANILCA Section 810 analysis. Based on discussions with the Federal Aviation Administration (FAA) and the USCG, it is our understanding that the USCG determined that

since the submerged lands were withdrawn for military purposes, ANILCA Title VIII, including the requirements in Section 810, do *not* apply to the proposed project, and that subsistence uses occurring in the project area have been allowed under the USCG's discretionary authority implicit in 16 USC §1382. The USCG also cites regulations at 50 CFR 100.3(d), which they state exempt all military lands closed to access by the general public from the Federal Subsistence Management Program.

The USCG also determined that ANILCA Title XI, specifically the transportation and utility system application process in Sections 1101-1107, applies to the proposed project because the definition for transportation and utility system in Section 1102 and implementing regulations at 43 CFR 36 includes airports, and the proposed project requires federal authorizations.

We concur with the determination that Title XI applies to the proposed project but disagree that ANILCA Title VIII does not apply. ANILCA Section 303(1) expanded and re-designated the Alaska Maritime National Wildlife Refuge, including “...*an undetermined quantity of submerged lands, if any, retained in Federal ownership at the time of statehood around Kodiak and Afognak Islands...*” Title VIII of ANILCA applies to all public lands, which are defined in ANILCA Section 102(3) as “...*lands situated in Alaska, which after the date of enactment of this Act, are Federal lands...*” The Federal Subsistence Management Program regulations at 50 CFR 100.3(b)(1)(ii), which implement Title VIII of ANILCA, specifically indicate the regulations apply to the submerged lands in Womens Bay. The exemption for military lands in 50 CFR 100.3(d) cited by the USCG applies only to lands not previously addressed in 100.3(a)-(c) (i.e. Womens Bay) and which, according to the regulation's preamble, are “*not part of a conservation system unit.*” (69 FR 70942, Dec. 8, 2004) Further, Womens Bay is specifically described in 100.3(b) as “public lands,” whereas the preamble for 100.3(d) notes that exempted “*military lands...are not considered 'public' lands.*” (69 FR 70942) In addition, the 1988 Comprehensive Conservation Plan for the Alaska Maritime National Wildlife Refuge did not reference any exceptions under ANILCA for the USCG lands and included an ANILCA Section 810 Analysis for the Gulf of Alaska Unit, which includes Womens Bay.

We therefore request the FAA follow the requirements in ANILCA Section 810 for the proposed project, including notice and hearing requirements in Section 810(b).

Summary - Fish and Invertebrates

The draft EIS, page 20 states, “*At the landscape scale, Runway 07/25 Alternative 2 (Preferred Alternative) would have major impacts to sockeye salmon and Dolly Varden...*” Please clarify whether the physical boundaries of the landscape scale is limited to Womens Bay or if it also includes Chiniak Bay.

Chapter 1: Purpose and Need

1.5.2 Cost and Funding

The DEIS states, “...*the FAA has developed guidance that helps to define the maximum feasible cost for RSA projects (FAA 2004). Using this guidance, and considering local and regional factors, the FAA has determined that the maximum feasible cost of RSA improvements for Kodiak Airport is approximately \$25 million for Runway 07/25 and approximately \$25 million for Runway 18/36.*” The FAA Financial Feasibility and Equivalency of RSA Improvements and EMAS, used as a tool to

determine the costs analysis of meeting the RSA standard using EMAS for the Kodiak Airport, does not discuss other costs associated with determining the maximum feasible cost of each runway. We recommend that the FEIS discuss the projected costs of all aspects of the project, not just the cost of installing EMAS. The \$25 million amount limits the potential range of alternatives and eliminates some alternatives that may avoid or minimize impacts. A table with the projected costs associated with construction of both runways would be useful in reviewing the cost estimates for each alternative.

Chapter 2: Alternatives

2.4.1 Runway 07/25 RSA Alternatives

The DEIS Alternative 2 (preferred alternative) states, “*Alternative 2 would enhance the RSA at the east end of the runway through an extension into St. Paul Harbor to the east and the use of EMAS.*” The proposed EMAS for Alternative 2 would use 70-knot EMAS to provide stopping capability for the runway’s design aircraft, requiring the extension of Runway 25 RSA landmass 600 feet.

The 2009 Preliminary DEIS Alternative 3 proposed to extend Runway 25 RSA landmass 425 feet and install 70-knot EMAS to provide stopping capability for the runway’s design aircraft. We recommend that the FEIS discuss why Alternative 3 proposed in the Preliminary DEIS is not feasible and was not brought forward in the DEIS. The reduced fill footprint would reduce the biological impacts and subsistence impacts of the project by reducing the amount of fill into waters of the U.S. The projected cost for Alternative 3 in 2009 dollars was \$30 million, based on a 4:1 fill slope. The proposed alternatives in the DEIS will be built on the 2:1 fill slope. If Alternative 3 was designed with the same specifications, it may reduce the installation costs below \$25 million.

Chapter 3: Affected Environment

3.2 Land Use

Please refer to the 4th paragraph, 3rd sentence. This sentence truncates the purposes of the Alaska Maritime National Wildlife Refuge. We request a revision that reflects all refuge purposes established by ANILCA Section 303(1)(B)(i-v).

Chapter 4: Environmental Consequences

Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (PPNEPA), 40 CFR Part 1502.24, “Methodology and Scientific Accuracy,” state, “*Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analysis in environmental impact statements.*” The scientific integrity of the Freshwater and Marine Ecology Technical Report for Kodiak Airport Environmental Impact Statement, Kodiak, Alaska, as prepared by SWCA Environmental Consultants (2009 Technical Report), appears to meet this standard as required by the Act. However, the fisheries sampling periods of September 10-12, 2007, and June 17-20, 2008, do not provide adequate data to support the DEIS’s determination that impacts to pink, chum and coho salmon in the landscape area are minor. In addition, the impact severity comparisons do not discuss the indirect effects on a landscape scale. Indirect effects are multi-layered and include the effects to subsistence, commercial and sport fisheries. The FEIS needs to define the individual effects on a landscape scale.

“Significant impacts to fisheries resources” and “Significant impacts to salmonids” were referred to several times in the text and tables. We recommend the FEIS explain the meaning of “significant impacts” quantitatively to the reader as it is defined in PPNEPA, 40 CFR Part 1508.27, “Significantly.”

4.5.1 Summary

The DEIS states, “*At the landscape scale, Runway 18/36 Alternatives 2 through 6 as well as Runway 07/25 Alternatives 2 and 3 would have major impacts to sockeye and Dolly Varden because the Buskin River basin is an essential and unique habitat for those populations, and the habitat loss would also effect one of the primary food source for sockeye salmon, Pacific sand lance. Effects to other salmonids at the landscape scale would be minor for all Build Alternatives because other Chiniak Bay stream basins produce populations of these species that contribute to the overall salmonid populations in the bay.*” Please clarify what study determined Pacific sand lance is a primary food source for the Buskin River sockeye stock. We recommend the FEIS provide more information on how this minor effect on other salmonids was determined. The reduction of pink, chum and coho salmon populations in the Buskin River, combined with natural fluctuations of populations in other Chiniak Bay streams, may be a significant impact.

4.5.2 Analysis Methods

The DEIS states, “*Environmental consequences to freshwater and marine fish and invertebrates species were determined by first documenting the existing conditions of the aquatic environment and then assessing how those conditions may change as a result of proposed RSA development.*” The 2009 Technical Report discusses the use of SCUBA in May 2008 to conduct visual estimates of fish, crabs and canopy kelp along two transects at the end of Runway 25 and two transects at the end of Runway 36. The report does not discuss what species of fish were observed during the sampling effort. The report indicates the survey was conducted in May 2008, but does not indicate how many days samples were collected along each transect. The report provides little information about what species of fish and invertebrates are present in the proposed runway fill areas. These details should be included.

We recommend that additional fish and invertebrate sampling be conducted in the marine waters that will be impacted by the two proposed RSA improvement projects. Construction in marine waters is anticipated to begin in 2014 by constructing one RSA in 2014 and constructing the other RSA in 2015. We request the RSA on runway end 36 be constructed first. This will provide an additional two years of fish and invertebrates data to be collected on runway end 25, which provides significant habitat to fish and invertebrate species. Additional information of species composition and abundance will provide an improved projection of the impacts to fish and invertebrate species. The additional fish and invertebrate data can be used by the U.S. Army Corps of Engineers (COE) to make a more informed decision when determining compensatory mitigation required for the proposed fill in marine waters.

4.5.4.1 Impacts from Runway 07/25 RSA Alternatives

The DEIS states, “*Both Runway 07/25 build alternatives could result in major, significant, long-term impacts to marine habitats, functions, and fish and invertebrate species, including major impacts to juvenile salmonid rearing and foraging habitat for stocks other than steelhead from the Buskin River, and major impact to salmonid prey species.*” The DEIS does not state why steelhead from the Buskin River were excluded in this determination of major impacts to juvenile salmonid rearing and foraging habitat. Please provide the data to support this statement.

4.11.1 Subsistence Resources and Uses

Page 4.11-13, Figure 4.11-1. To better disclose the runway alternative's impacts on subsistence fishing, we recommend updating this figure so it depicts the runway alternatives. We recommend using this new figure in Section 4.11.4.1 and 4.9.4.2. In addition, section 4.9.4.2 should probably be revised as section 4.11.4.2.

Page 4.11-15, 1st paragraph, 2nd sentence. As written, this sentence is confusing. We suggest the following revision:

"In 2008 and 2009, because of the decline in sockeye escapement in the Buskin River ~~was so low~~, the Buskin River sockeye salmon sport fishery was closed by mid-June."

4.13.4 Environmental Consequences of the Alternatives

Subsistence Impacts: This paragraph includes data regarding the use of the Buskin River by residents of the City of Kodiak and the USCG Base. This paragraph does not include citations of where the data are from, however we recognize it is data from the Alaska Department of Fish and Game (ADF&G). Table 4.10-3 is the only reference to ADF&G subsistence harvest data and includes data from 1991. The ADF&G Division of Subsistence conducted comprehensive subsistence harvest surveys in the City of Kodiak, most recently for study years 1991, 1992, and 1993. The survey data for these years are available to the public on the Community Subsistence Information System (CSIS) database. These data should be used and appropriately referenced in the FEIS.

On page 4.10-21, under "Subsistence Impacts," all salmon harvest data are referred to in terms of an average. And, in terms of an average, the DEIS states, "*the economic impact [on subsistence users] would not be significant.*" Given the population of the City of Kodiak, it is quite possible that, when spread across the population, the economic impacts felt by each individual would not be significant. However, please consider that if those same pounds of salmon are spread across the families who reside near the Buskin River, or who otherwise use the Buskin River on a regular basis, the economic impacts may be significant if the Buskin River is their only source of subsistence salmon.

Furthermore, on page 4.10-21, the DEIS states, "*...although there would be a long-term economic impact on subsistence users, this economic impact would not be significant.*" This statement can not be substantiated when the data are presented as averages. The economic significance for households in close proximity to the Buskin River and others who utilize the subsistence resources from this river will be far greater than for 'average' households located throughout the area covered by the City of Kodiak.

The sections entitled "Cultural Resources and Traditional Activities" and Section 4.11, "Subsistence," both provide a good overview and accurate portrayal of the critical role that salmon plays in the culture and way of life of the peoples of Kodiak who live along the road system.

Chapter 6: Mitigation

6.6 Compensatory Mitigation

The DEIS states, "*Compensatory mitigation is a method for offsetting impacts that cannot be avoided or minimized. These offsets may take many forms, such as replacement of habitat types lost, preservation or other habitats at risk, or even funding to support local or area mitigation needs.*" The DEIS

indicates the ADOT&PF may use a conceptual planning process as a basis for a final compensatory mitigation plan. This section does not describe the Compensatory Mitigation Rule (see 73 FR 19594-705, Apr. 10, 2008) that is used for compensatory mitigation. At a minimum, the FEIS should discuss the three methods used to accomplish compensatory mitigation:

1. Mitigation Banks: whereby a permit applicant may obtain credits from a mitigation bank. A mitigation bank is a wetland, stream or other aquatic resource area that has been restored, established, enhanced or preserved. This resource area is then set aside to compensate for future impacts to aquatic resources resulting from permitted activities. The value of a bank is determined by quantifying the aquatic resource functions restored, established, enhanced and/or preserved in terms of "credits." Permittees, upon regulatory agency approval, can acquire these credits to satisfy compensatory mitigation requirements.
2. In-Lieu Fee Mitigation: whereby a permit applicant may make a payment to an in-lieu fee program that will conduct wetland, stream or other aquatic resource restoration, creation, enhancement or preservation activities. In-lieu fee programs are generally administered by government agencies or non-profit organizations that have established an agreement with the regulatory agency to use in-lieu fee payments collected from permit applicants.
3. Permittee-Responsible Mitigation: whereby a permittee may be required to mitigate through an aquatic resource restoration, establishment, enhancement and/or preservation activity. The compensatory mitigation may be provided at or adjacent to the impact site or at another location, usually within the same watershed as the permitted area. The permittee retains some responsibility for the implementation and success of the mitigation project.

The conceptual planning process as discussed in Section 6.7, "Outline for a Conceptual Compensatory Mitigation Plan," does not discuss how this plan is relevant to the Compensatory Mitigation Rule. Section 6.6 should disclose the preferred method of compensation through the Compensatory Mitigation Rule to the loss of waters of the U.S. and state why the other options would not be used.

During November 13 and 15, 2012, DEIS meetings hosted by the FAA and ADOT&PF and attended by Kodiak area tribal governments and state and federal agencies, the FAA stated that ADOT&PF has proposed In-Lieu Fee Mitigation as the preferred method for satisfying compensatory mitigation requirements. It was also disclosed that the in-lieu fee program administrator might not use the fund for restoration of a wetland, stream or other aquatic resource in the Kodiak area. The October 19, 2012, COE Special Public Notice for the availability of the DEIS indicates the ADOT&PF has proposed In-Lieu Fee Mitigation at a 2:1 ratio.

We recommend Permittee-Responsible Mitigation be used to satisfy the compensatory mitigation requirement and request mitigation first be considered within the area of impact. For instance, Permittee-Responsible Mitigation may be used to replace culverts owned by ADOT&PF in the landscape area that currently do not provide fish passage. The culverts will be replaced with structures that are approved by ADF&G and will be designed and installed to provide unrestricted fish passage. ADF&G culvert surveys that have been conducted within ADOT&PF right-of-ways located in the landscape area have identified six culverts on the Saltery Cove Road, four culverts on the Chiniak Highway and one culvert on the Anton Larson Bay Road that currently do not meet fish passage criteria.

Additionally, we recommend that mitigation help support projects that will be administered by ADF&G. Projects may include:

- A proposed enhancement project in the landscape area to provide increased recreational and subsistence opportunities for sockeye salmon production.
- Operate adult salmon enumeration weir in the Buskin River for ten years (two sockeye salmon life cycles) to evaluate short term and long term effects to the river's salmon runs.
- Conduct a migratory study on sockeye salmon smolt outmigrating from the Buskin River to the ocean by inserting a miniature transmitter into sockeye salmon smolt at the Buskin Lake outlet. Smolt collected at the lake outlet will be tracked traveling down the Buskin River and out into the saltwater to monitor their migration route in the project area. If the feasibility study is successful, tag smolt for five years before, during and after the safety improvements are made.

Appendix

Kodiak Airport Runway Safety Area Improvements Draft Essential Fish Habitat Assessment (DEFHA)

3.1 Salmon Essential Fish Habitat

The DEFHA states, "*Freshwater EFH for salmonids occur in the Buskin River. The Buskin River and its tributaries are identified as important freshwater spawning areas for chum, coho, pink, and sockeye salmon.*" "Further, Buskin Lake, Lake Louise, and Lake Catherine are listed as important spawning waters for coho and sockeye salmon in the ADF&G's Catalog of Waters Important for Spawning, Rearing, or Migration of Anadromous Fishes (ADF&G 2012)." The ADF&G's Catalog of Waters Important for Spawning, Rearing, or Migration of Anadromous Fishes also indicates that steelhead spawn and rear in the Buskin River and Dolly Varden are present and rear in the Buskin River. Please revise the DEFHA to include steelhead spawning and rearing in the Buskin River and Dolly Varden presence and rearing in the Buskin River.

Thank you for this opportunity to comment. Please contact me at (907)269-7529 if you have any questions.

Sincerely,

/ss/

Susan Magee
ANILCA Program Coordinator

