



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

ANILCA Implementation Program

OFFICE OF PROJECT MANAGEMENT AND PERMITTING

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Director,
Bureau of Land Management, U.S. Department of the Interior
1849 C St., NW., Room 2134LM
Washington, DC 20240

Attn: OMB Control Number 1004-AE24

Via email: oira_submission@omb.eop.gov

Dear Sir/Madam:

The State of Alaska conducted a limited review of the Federal Register Notice (Notice), which proposes to establish a regulatory framework for competitive solar and wind energy rights-of-way. The following comments represent the consolidated views of the State's resource agencies.

We support the inclusion of Section 2805.12(a)(8)(iii)(A), which requires grantees and lessees to control or prevent damage to fish and wildlife habitat and we encourage BLM to consult with state fish and wildlife management agencies early in the application process to ascertain the potential for fish and wildlife related issues, and when BLM foresees such impacts may occur.

We also support Section 2805.12(a)(8)(iv), which requires BLM to protect the interests of subsistence users pursuant to Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). However, we did not note any reference in the proposed rule to ANILCA Section 810, which prescribes a process for evaluating and addressing impacts to subsistence use, including notice and hearing requirements that differ from the requirements in the proposed regulation. We request the final rule specifically recognize ANILCA Section 810 and its process requirements for evaluating and addressing impacts to subsistence use

We also request the proposed rule reference ANILCA Title XI Transportation and Utility Systems (TUS), which identifies a mandatory process that ensures transportation and utility projects affecting conservation system units (CSUs), national recreation areas and national conservation areas in Alaska receive full consideration by federal authorizing agencies. Additionally, with over 100 million acres of conservation system units, many lands in Alaska would be categorized as subsection (c) "low-priority applications" because they are "lands near or adjacent to lands designated by Congress, the President, or the Secretary for the protection of sensitive viewsheds, resources or values" per subsection (c)(1), or are "lands near or adjacent to Wild, Scenic, and Recreational Rivers and river segments determined suitable for Wild or Scenic River status" per subsection (c)(2). This is contrary to congressional intent in ANILCA Title XI, which specifically recognized Alaska's limited transportation and utility network and need for future transportation and utility systems.

To date, Alaska is not part of the Wind Energy Development Program or Solar Energy Zones, and therefore land in Alaska would presumably fall under the competitive process for solar or wind energy development for lands outside of designated leasing areas (Section 2804.30). The prioritization for applications described in Section 2804.35 may have unintended negative effects to wind and solar projects in Alaska because very few lands would qualify for high priority applications. Currently, utility-scale solar projects are not viewed as feasible in Alaska due to seasonal darkness; however, wind power is increasingly becoming a supplemental source of power in small, rural Alaskan communities (projects are typically less than 500 kilowatts in size). We question whether these are the sorts of projects the proposed rule is intending to target.

The qualifier for the Section 2804.35 prioritization process is “may adversely affect,” a term which is open to broad interpretation and could delay consideration of an application indefinitely, before any of the possible impacts have been properly analyzed under the NEPA process. At a minimum, the proposed rule should define “may adversely affect.”

We object to the criteria in 2804.35(b)(2) that includes “lands with wilderness characteristics” as “conservation lands,” which is otherwise undefined. We recommend this term be defined. In addition, “lands with wilderness characteristics” is an administratively defined term that applies to lands merely inventoried as having wilderness characteristics, which BLM *may or may not* be managing for protection purposes (IM No. 2011-154). They should not be categorically included in these screening criteria without consideration of relevant land use planning decisions. Wilderness characteristics inventories that have been completed in Alaska to date have concluded that the majority of BLM lands have wilderness characteristics. If this criterion is retained, Alaska needs to be exempted as, on that basis alone, most applications would automatically be given a medium priority status.

In summary, we request the following changes to the proposed rule.

- The addition of language in the final rule encouraging BLM to consult with state fish and wildlife management agencies early in the application process regarding potential fish and wildlife related issues BLM foresees.
- That the final rule specifically recognize ANILCA Section 810 and its process for evaluating and addressing impacts to subsistence use; and ANILCA Title XI and recognition that Title XI allows for the consideration of transportation and utility systems across the types of lands described in the proposed rule’s subsection (c)(1) and (2).
- The deletion of the qualifier “may adversely affect” for Section 2804.35’s prioritization process. At a minimum, we request that this term be defined.
- Addition of a definition for the term “conservation land”.
- That “lands with wilderness characteristics” be deleted as a screening criteria in Section 2804.35(b)(2), unless relevant land use planning decisions lend to this conclusion.
- If “lands with wilderness characteristics” is retained as conservation land criteria, Alaska needs to be exempted from the prioritization process.

Thank you for the opportunity to comment. If we can be of any further assistance on issues related to the uniqueness of land management in Alaska, please call me at (907)334-2563 or Susan Magee at (907)269-7529.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Jennifer Wing".

Jennifer Wing

ANILCA Project Coordinator

cc: Susan Magee, ANILCA Program Coordinato
Samantha Carroll, SOA BLM Program Coordinator