

# STATE OF ALASKA

## CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

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Bureau of Land Management  
Eastern Interior Field Office  
Attention: Jeanie Cole  
1150 University Avenue  
Fairbanks, AK 99709

Dear Ms. Cole:

The Citizens' Advisory Commission on Federal Areas was re-established by the State of Alaska last year. The 12 member Commission is directed by its enabling legislation to "consider, research, and hold hearings on the consistency with federal law and congressional intent on management, operation, planning, development, and additions to federal management areas in the state." The Commission opened its office in Fairbanks in mid-July, 2008.

The original Commission participated in the planning efforts for the Steese National Conservation Area (SNCA), the White Mountains National Recreation Area (WMNRA), Birch Creek Wild and Scenic River (WSR), Beaver Creek WSR and the Fortymile WSR. We appreciate the opportunity to submit these brief scoping comments on the Bureau of Land Management's current proposal to prepare a Resource Management Plan (RMP) and Environmental Impact Statement (EIS) for the Eastern Interior Planning Area, which includes these areas created by the Alaska National Interest Land Conservation Act (ANILCA)

Our comments will focus primarily on the ANILCA areas. For this current phase of the planning process, the staff has prepared these comments on behalf of the Commission. Formal comments on the draft RMP/EIS will be submitted after consideration by the full Commission.

Commission staff has reviewed the notes from the scoping meetings held in the communities throughout the planning area. The comments made at those meetings clearly demonstrate the importance of the resources on the public lands in this region to local communities and the high level of interest in how those public lands are managed. It appears that the BLM has made an excellent start in involving the public in this planning effort.

### **ANILCA Provisions**

The Eastern Interior Planning Area RMP must fully incorporate the applicable provisions of ANILCA. These provisions provide management and planning direction for the Steese NCA, the White Mountains NRA, Birch Creek, Beaver Creek and the Fortymile River. ANILCA contains specific purposes and management directions for each of these areas and also incorporates and amends provisions of the Federal Land Policy and Management Act (FLPMA) and the Wild and Scenic Rivers Act.

ANILCA, Section 401, established the Steese NCA “to provide for the immediate and future protection of the lands in Federal ownership within the framework of a program of multiple use and sustained yield and for the maintenance of environmental quality.” Section 401 also states that caribou range and Birch Creek are special values to be considered in planning and management of the area.

Section 402 contains administrative provisions which further direct the BLM to administer the Steese NCA under the applicable provisions of FLPMA and allows for exploration and development of both leasable and locatable minerals if consistent with the land use plan for the area. The existing Record of Decision for the Steese NCA allows for mineral location, oil and gas leasing, geothermal leasing and leasing of non-energy minerals within certain management units. While we understand that this recommendation was never implemented, any decision to change that management direction should be fully addressed in the RMP and associated EIS.

Section 403 established the White Mountains NRA and directed that it be managed in accordance with the provisions of ANILCA Section 1312 and other provisions of that act, as well as FLPMA and other applicable law. This section also directs BLM to work closely with the State of Alaska in planning for the recreational use and management of the area.

ANILCA Section 1312(a) directs the BLM to manage the White Mountains NRA to “provide for public outdoor recreation use and enjoyment and for the conservation of the scenic, scientific, historic, fish and wildlife and other values contributing to public enjoyment of such area.” Section 1312(b) allows, subject to reasonable regulation, BLM to permit the removal of leasable and nonleasable minerals. The 1986 ROD for the White Mountain NRA allowed for such leasing within some management units and regulations to allow leasing of hardrock minerals were promulgated. However, it is not clear if the public land order which would have revoked the existing mineral withdrawal was ever written or if any leasing has occurred. As with the Steese NCA, the RMP/EIS should address this issue.

### **ANILCA Access**

Title XI of ANILCA and the regulations at 43 CFR Part 36 provide for the possible development of any transportation and utility system in or across conservation system units, such as the 3 wild and scenic rivers within the planning area, as well as the Steese NCA and the White Mountain NRA. Additionally, Section 1110 (a) permits, subject to reasonable regulation, within these areas use of snowmachines, motorboats, airplanes and non-motorized surface transportation methods for traditional activities and for travel to and from villages and homesites. Further, this

use shall not be prohibited unless, after notice and hearing, it is determined that it is detrimental to the resource values of the unit or area. The regulations at 43 CFR 36.11(a)-(f) implement this section of ANILCA. The regulations at 43 CFR 36.11(g) address the use of off-road vehicles within these areas.

For the Steese NCA, White Mountains NRA, Birch Creek, Beaver Creek and the Fortymile River, the revised RMP/EIS should address current types and levels of access for recreation and other purposes. Existing access restrictions or closures should be fully assessed to determine if they are still needed for resource protection or management purposes. Any decision to implement additional restrictions on types of access or to close areas can only be implemented through the process outlined in 43 CFR 36.10(h). Further, any existing restrictions or closures which may have been implemented without following these procedures should be reassessed and brought into compliance with the regulations.

ANILCA Section 811(b) provides that the Secretary of the Interior “shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.” Because this section applies to all federal public lands in Alaska where subsistence activities are permitted, the RMP/EIS should address this use and how the “reasonable regulation” standard would be applied.

ANILCA Section 1323(b) states: “Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of the Interior may prescribe, the Secretary shall provide such access to nonfederally owned land surrounded by public lands managed by the Secretary under the Federal Land Policy and Management Act of 1976 (43 USC 1701-82) as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner comply with rules and regulations applicable to access across public lands.” This guarantee of access is similar to that found in Section 1110(b) for conservation system units, but applies to all BLM managed lands in Alaska. The RMP/EIS should address this provision as it applies to future access needs for State lands, Native Corporation, and other private lands within the planning area.

### **National Landscape Conservation System**

The SNCA, the WMNRA, Birch Creek WSR, Beaver Creek WSR and the Fortymile WSR are included in the National Landscape Conservation System (NLCS). The Notice of Intent (NOI) states that the SNCA and the WMNRA require their own separate Record of Decision (ROD) due to their status as units of the NLCS. The notice does not note, however, that the three wild and scenic rivers are also units of the NLCS.

As stated above, various sections of ANILCA contain specific purposes and management direction for each of these areas. This Commission has some concerns with the NLCS program and how the administrative designation of these ANILCA areas as units of the NLCS will affect management direction and development of the RMP.

The stated NLCS mission to “conserve, protect and restore nationally significant landscapes recognized for their cultural, ecological and scientific values for the American public” creates an additional and generally undefined management structure for these areas. It is our understanding that there are currently no NLCS planning guidelines on how an NLCS designation is to be factored into the RMP process. Absent clear guidelines that recognize the precedence of the ANILCA mandates over the administrative designation of these areas, there is a significant potential for conflicts between the statutory mandates and those of the NLCS.

The RMP/EIS should fully discuss the NLCS program and how any program guidelines or policies will affect both the planning process and future management direction for those areas included in the system. The resolution of any conflicts between the administrative program’s mission and ANILCA mandates must defer to the statute.

### **Off Highway Vehicle Use**

The original RMP for the Steese NCA and the White Mountains NRA allow a wide array of recreational opportunities, both motorized and non-motorized. According to the September 2005 Scoping Report for the White Mountains NRA RMP amendment, one of the reasons for revising the RMP was the need to revisit the management of off-highway vehicles (OHV). The NOI also lists off-highway vehicle use as a major issue or management concern that will be addressed in the Eastern Interior RMP.

The BLM should consult closely with user groups in identifying the need to make changes to the designated OHV use areas. User groups should also be consulted in developing and implementing a monitoring program and establishing threshold standards that would trigger closures or use restrictions.

### **RS 2477-Rights of-Way and ANCSA Section 17(b) Easements**

Commission staff has reviewed the scoping comments submitted by the State of Alaska on these two important issues. We encourage the BLM to adopt their suggestions on how these issues should be handled in the RMP/EIS and in the future management of the Eastern Interior.

Again, we appreciate the opportunity to comment. We look forward to working with the BLM during this planning process and in reviewing the draft RMP/EIS when it is released for public review. If we need to clarify any of these comments or if we can answer questions, please contact our office.

Sincerely,



Stan Leaphart  
Executive Director