

STATE OF ALASKA

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April 14, 2005

Carol Goularte
Sitka District Ranger
Tongass National Forest
Att: Sitka ATM EA
204 Siginaka Way
Sitka, Alaska 99835

Dear Ms. Goularte:

On behalf of state representatives participating in the Sitka Ranger District's Access-Travel Management Plan, this letter comments on the planning process and underlying assumptions that appear to inherently conflict with the Alaska National Interest Lands Conservation Act (ANILCA), especially with respect to off-highway vehicle use.

At the Sitka public meeting on March 24, 2005, Service personnel stated that, once the final national off-highway vehicle (OHV) policy is released, the Service will close all roads and off-highway vehicle trails. They further stated that these roads and trails will be subject to reopening for public access through the Access-Travel Management Plans. The Service's intent to consider all land "closed until open" contradicts clear Congressional direction in several access provisions of ANILCA. For example, under Sections 811 and 1110(a), access is considered "open until closed" subject to "reasonable regulation." The Forest Service has no such regulations.

Our primary concern is management of off-highway vehicles used as a traditional method of access for subsistence activities. The proposed national OHV policy conflicts with ANILCA Section 811:

Notwithstanding any other provision of this Act or other law the Secretary 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.

The March 2005 project information document produced and distributed for the Sitka Ranger District Access-Travel Management Plan contains no mention of how access for subsistence will be allowed and under what criteria it will be restricted in the plan.

Similarly, ANILCA Section 1110(a), and implementing regulations adopted by the Department of the Interior (43 CFR Part 36), all adhere to the fundamental principle of “open until closed.” In formal comments on the draft national OHV policy, the State argued that the Service must recognize access for subsistence and other applicable ANILCA provisions that are unique to Alaska (see letter of September 12, 2004, enclosed). Since statutory directives override agency policy, we are on record at the national level requesting the Service incorporate Alaska-specific exceptions based on ANILCA, or exempt Alaska entirely from national agency policy. We recognize that our primary concern with the pending national policy is outside the scope of the local access plan; however, regardless of what happens with the OHV policy at the national level, the local plan must adhere to ANILCA’s intent.

In addition, the State of Alaska has broad management authorities that overlay all Service lands, most notably the management of fish and wildlife. State agencies must retain the ability to access areas within the Sitka Ranger District to conduct these state responsibilities pursuant to the Master Memorandum of Understanding between the Service and the Alaska Department of Fish and Game. Such work may require immediate and safe access using one or more access methods, such as airplanes, off-highway vehicles, or boats. We request the plan recognize and address the ability of state agencies to use roads and trails otherwise closed to the general public for administrative purposes, consistent with ANILCA and, where applicable, the Wilderness Act.

Thank you for your consideration of these important concerns. In light of the larger issues at stake here, we are copying the Regional Forester to enlist his support in achieving resolution. Please feel free to contact me if you have any questions.

Sincerely,

Sally Gibert
ANILCA Implementation Program Coordinator

cc: Forrest Cole, Tongass Forest Supervisor
Patricia O’Connor, Yakutat District Ranger

Enclosure: September 12, 2004 letter regarding the draft national OHV policy