



October 23, 2018

Tim Charnon, Glacier District Ranger
USDA Forest Service
145 Forest Station Road
P.O. Box 129
Girdwood, AK 99587

Dear Mr. Charnon:

The State of Alaska reviewed the Preliminary Environmental Analysis (EA) for the proposed Portage Curve Multimodal Connector project. The following comments represent the consolidated views of state agencies.

As indicated in the State's scoping comments on the project, the Alaska Department of Transportation and Public Facilities (ADOT&PF) has been working cooperatively with the Forest Service for the past several years to develop workable, cost-effective solutions for this project to incorporate into the design concept for the Seward Highway Milepost 75-90 Road and Bridge Rehabilitation Project. The proposed trail provides a safer transportation alternative for foot and bicycle traffic within the highway right-of-way (ROW) and also provides a connection to other recreation facilities and segments of the INHT located outside of the highway ROW.

The trail was initially identified in the Forest Service's scoping notice as a connecting link to historic segments of the INHT, implying that once constructed it will be a segment of the INHT, a congressionally designated unit of the National Trails System (NTS). As such, it would also be a conservation system unit (CSU) as defined by the Alaska National Interest Lands Conservation Act (ANILCA). We have found other statements with similar implications in the Draft Land Management Plan for the Chugach National Forest. While the EA includes the Forest Service's commitment to not consider any portion of the proposed project for inclusion in the national historic trail system in the future, any indication that the boundaries of the INHT are or could be located within the Seward Highway ROW would present unique management challenges for both the Forest Service and ADOT&PF, and present additional unintended consequences associated with funding for current and future highway projects and restrictions associated with Section 4(f) of the Department of Transportation Act. Therefore, it is critical that the final decision document for the project provide additional clarification about the status of the proposed trail and other historic segments of the INHT located within the Seward Highway and Alaska Railroad Rights-of-Way (ROW). Following is an explanation for why neither the proposed trail nor the historic segments within these ROWs are segments of the INHT, units of the NTS, or CSUs under ANILCA.

The Iditarod National Historic Trail

The National Trails System Act designated the INHT as a “route of approximately two thousand miles extending from Seward Alaska to Nome Alaska..., following the routes as depicted on maps identified as “Seward-Nome Trail” in the Bureau of Outdoor Recreation’s September 1977 study report. The route is actually a trail system made up of a primary trail route connecting Seward and Nome, and over thirteen hundred miles of other trails which connect the Alaska Road Commission’s Seward to Nome Route with gold strikes, communities, and access points.” (Page 4-5, Iditarod Comprehensive Management Plan (CMP)) These primary and connecting routes cross federal, state, local, and private lands; however, only segments on federal lands were considered part of the initial INHT system. Segments on non-federal lands can only become components of the system if requested by the landowner and through cooperative agreements (Page 61 CMP).

As a congressionally-designated unit of the NTS, in 1980 ANILCA designated the INHT as a CSU. The definition of CSU in ANILCA also includes any unit established, designated, or expanded into the future. Numerous provisions in ANILCA address use and access in CSUs, which apply to federally-managed portions of the INHT. However, only federally managed segments of the INHT are considered CSUs under ANILCA; federal agencies can only manage segments of the INHT located on non-federal lands by way of a cooperative agreement with the non-federal land manager.

The CMP indicates the Seward Highway overlays the historic Granite Creek/Ingram Creek connecting trail segment, which is located within the project area and is managed by the State of Alaska (Page 91 CMP); likewise, the CMP indicates the Alaska Railroad overlays the historic primary trail segments from Moose Pass to Girdwood, which is located within the project area and managed by the State’s Alaska Railroad Corporation (Page 78, CMP). The only management recommendations in the plan for these segments are to “mark highway segments with the appropriate symbol” (Page 78), and to “construct a parallel recreational trail between Seward and Portage adjacent to, but outside of, existing railroad and highway rights-of-way” (Page 87). The plan does not recommend establishing rights-of-way for segments that correspond to existing highways and secondary roads, including the Seward Highway, “because use is established and public access is assured” (Page 78). The Seward Highway was conveyed to the State of Alaska in 1959 pursuant to Section 21 of the Alaska Omnibus Act, which preceded the designation of the INHT as part of the National Trail System in 1978. Conveyance was secured by an exclusive use highway right-of-way (ROW).

The National Trails System Act (NTSA) recognizes that due to subsequent development as motorized transportation routes, many trail segments may no longer be available for travel as a trail and as such, can be identified as segments which link to the historic trail (NTSA, Section 5(b)(11)(a)). Section 7(c) of the NTSA states “When a national historic trail follows existing public roads, developed rights-of-way or waters, and similar features of man’s non-historically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where national historic trail parallels an existing public road, such road may be marked to commemorate the historic route.” In a Memorandum of Agreement (MOA) between the Bureau of Land Management and the State of Alaska (1987), the State agreed to protect continued public use of the INHT segments located outside the highway ROW by allowing public use of highway ROW to access such segments (MOA Page 3). The MOA also provides a procedure by which a State agency can

formally request the designation of an INHT segment on State managed land (MOA Page 2); the State has not requested INHT designation for any portion of the Seward Highway.

Therefore, based upon the conveyance of the Seward Highway to the State by an exclusive use highway ROW, the acknowledgements and recommendations in the CMP, and the NTA's recognition that historic trail use may be precluded by subsequent development, any historic connecting segments of the INHT located within the Seward Highway ROW, whether currently identified in the CMP or identified in the future, are not components of the INHT system, nor subject to federal management and therefore, are not managed by the Forest Service or defined by ANILCA as a CSU. In order for the project to proceed within the Seward Highway ROW, the Forest Service's final decision document for the project must reflect this understanding.

Section 4(f) Joint Planning Exemption

We appreciate the accurate description in the EA (Page 32) of the project's primary purpose:

Provision of dedicated multimodal pathways separate from the Seward Highway, as well as grade-separated pathway crossings to connect recreational amenities on either side of the Seward highway should reduce hazards associated with current pedestrian and bicyclist use of the shoulders of a high-speed, high capacity roadway. ... Provision of safe multimodal transport access along the Seward Highway and adjacent areas is the primary purpose of the project.

Because the project is jointly planned by the Forest Service and the State of Alaska, and the primary purpose of the project is for safe transportation along the Seward Highway and adjacent areas, the State of Alaska is sufficiently comfortable that Section 4(f) restrictions will not be applicable to future uses of the pathway.

We note, however, a contradictory statement about the project located in the Draft Environmental Impact Statement for the Chugach National Forest Land Management Plan Revision (at Page 137):

The Forest Service received a Transportation Alternatives Program grant from the State of Alaska in 2016 for **seven miles of proposed trail and associated trailheads along the Seward Highway from Twentymile Creek to Ingram Creek and for a trail segment connecting to the Trail of Blue Ice in Portage Valley. This proposed recreation infrastructure is part of the INHT Southern Trek project and would provide a critical link for the Iditarod trail system and to other recreation venues, such as the Alaska Railroad and Whistle Stop recreation areas and the Alaska Wildlife Conservation Center near Portage.**

The bolded portion of the statement would lead a reader to believe that the project would create an INHT trail segment with a primary purpose of recreation. As written, that bolded statement would make it much more difficult for the State of Alaska to defend a determination of the inapplicability of Section 4(f). The State of Alaska requests that the bolded statement from the Draft Environmental Impact Statement be replaced with a statement worded as close as possible to the above-quoted accurate statement from the project's EA.

Page-specific Comments

Page 3: The EA indicates a secondary purpose of the project is to provide access to “private properties surrounded by the Chugach National Forest, consistent with Title XI, Section 1110(b) of the Alaska National Interest Lands Conservation Act (ANILCA).” There are two provisions in ANILCA, Sections 1110(b) and 1323, which provide for access to inholdings. Section 1110(b) applies to state and private inholdings within or effectively surrounded by CSUs, national recreation areas, national conservation areas and designated wilderness study areas. Section 1323(a) applies to inholdings within (non-CSU) national forest system boundaries. From the description in the EA, it appears the applicable provision is Section 1323(a); however, the rights of access provided in the two provisions are distinctly different. Please clarify which provision applies to the private properties in the project area in an errata sheet in the final decision document for the project. This comment also applies to the second bullet at the top of page 7.

Page 3: The summary of scoping comments in the EA states that the State is concerned that if the proposed trail is part of the INHT system, it would be subject to “a lengthy and complex [ANILCA Title XI] permitting process.” To clarify, the State’s scoping comments did not describe the ANILCA Title XI process in that way, nor do we feel it is an accurate description. The length and complexity of the Title XI process, which incorporates the requirements under the National Environmental Policy Act, directly correlates with a proposed project and any associated site-specific resource and use issues. The timeline for the Title XI process itself is limited but includes an allowance for an extension at the discretion of the federal agencies participating in the process. We request the State’s comments regarding Title XI be clarified in an errata sheet in the final decision document for the project. In addition, while the comments were submitted by the State of Alaska ANILCA Program Coordinator, they were the State of Alaska’s comments. We suggest the following clarifying edits:

Process for future improvements to the Seward Highway – the State of Alaska ANILCA Program Coordinator commented that if the Portage Curve Multimodal Connector is considered a segment of the Iditarod National Historic Trail, it would have be a Conservation System Unit status under ANILCA, the boundaries for which would then be located within the established Seward Highway right-of-way. All provisions in ANILCA that apply to CSUs would then apply to the proposed trail, presenting unique challenges for managing both the trail and the highway, including triggering the ANILCA Title XI process should future upgrades to the Seward Highway, such as lane additions, that would require moving the pathway would trigger a lengthy and complex permitting process under Title XI of ANILCA.

Page 5: The last sentence in the bullet is incomplete.

Thank you for this opportunity to comment. We look forward to continuing collaboration with the Forest Service on this project.

Sincerely,



Susan Magee
ANILCA Program Coordinator

