



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

OFFICE OF PROJECT MANAGEMENT AND PERMITTING

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August 15, 2023

U.S. Department of the Interior, Director (630)
Bureau of Land Management
1849 C St NW, Room 5646
Washington, DE 20240
Attention 1004-AE78

Submitted online at [regulations.gov](https://www.regulations.gov)

Re: Rights-of-Way, Leasing, and Operations for Renewable Energy, Docket BLM-2023-0004

Dear Director Stone-Manning,

The State of Alaska (State) reviewed the Bureau of Land Management (BLM) proposed amendments to its existing right-of-way (ROW) regulations to “facilitate responsible solar and wind energy development on public lands managed by the BLM” (88 FR 39726).

The State requests BLM add language to the final regulations to acknowledge that Title XI of the Alaska National Interest Conservation Lands Act (ANILCA) applies to applications for rights-of-way for solar and/or wind projects in Alaska. ANILCA Title XI, and its implementing regulations at 43 CFR Part 36, outlines the process by which federal agencies must adjudicate applications for transportation and utility system rights-of-way across certain public lands in Alaska. We suggest the following language be added to **43 CFR § 2801.6 Scope**:

Applications for transportation or utility rights-of-way crossing conservation system units, national recreation areas, or national conservation areas in Alaska are subject to the provisions of Title XI of the Alaska National Interest Lands Conservation Act and 43 CFR Part 36.

In passing ANILCA, Congress sought to preserve unrivaled scenic values, wildlife populations and their habitat in vast undeveloped landscapes. Congress also sought to provide opportunity for rural residents to remain in their communities, and to balance the social and economic needs of the State of Alaska. Part of this balance was the inclusion of Title XI, a section designed in part to recognize the infrastructure needs of the young state and challenges that conservation system units (CSUs) or similar protected lands might pose to transportation and utility construction. Title XI provides a process by which federal agencies must evaluate applications for rights-of-way for transportation and utility projects within CSUs, including within designated wilderness areas, national recreation areas, national conservation areas, and wild and scenic river corridors. This process directs, among other requirements, the development of a National Environmental Policy Act (NEPA) document that considers alternative project designs and input from relevant agencies. Notably, the TUS process changes the compatibility standard for the TUS system such

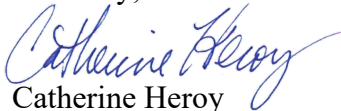
that it does not “significantly interfere with or detract from the purposes for which the area was established” (43 CFR 36.2(f)).

The addition of this reference to your revised rule would provide clarity to the public and to applicants for transportation and utility system rights of way through the CSUs, national recreation area, and national conservation area in Alaska.

Closing

The State appreciates the opportunity to review this proposed rule. Please contact me at (907) 269-0880 or by email at Catherine.heroy@alaska.gov to coordinate any follow up discussions.

Sincerely,

A handwritten signature in blue ink that reads "Catherine Heroy". The signature is written in a cursive style with a large, flowing initial "C".

Catherine Heroy
Acting State ANILCA Program Coordinator