



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Natural Resources**  
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Director  
Lands, Minerals, and Geology Management  
USDA Forest Service  
201 14<sup>th</sup> Street SW  
Washington, DC 20250-1124

Submitted electronically on Regulations.gov at <https://www.regulations.gov/commenton/FS-2023-0014-0001>

Re: Land Uses: Special Uses; Carbon Capture and Storage Exemption, RIN 0596-AD55

To Whom it May Concern,

The State of Alaska (State) reviewed the United States Department of Agriculture, Forest Service (Forest Service), proposal to amend its special use regulations, which prohibit authorizing exclusive and perpetual use and occupancy of National Forest System lands, to provide an exemption for carbon capture and storage. The proposal also includes a definition for “Carbon capture and storage.”

**ANILCA General**

The State reminds the Forest Service that the Alaska National Interest Lands Conservation Act (ANILCA) is the principal statute governing federal lands management in Alaska. Due to the relatively undeveloped nature of land in Alaska, special provisions exist via ANILCA to provide for public access to resources including subsistence resources. ANILCA protects public access in certain areas of Alaska’s Tongass and Chugach National Forests (ANILCA Title XI). Additionally, ANILCA Section 1323 requires the Secretary to provide access within the Forest System to non-federally owned land. Any surface activity resulting from carbon capture and storage operations that requires a closure to public access may require the Forest Service to comply with closure provisions outlined in ANILCA Title XI and Section 4013(b) of the Dingell Act.

**ANILCA 810**

As carbon capture projects are developed and reviewed in Alaska, Forest Service staff will need to incorporate an evaluation of impacts to subsistence uses, as outlined in ANILCA Section 810. This provision requires all federal agencies having primary jurisdiction over federal lands in Alaska to evaluate the effects any withdrawal, reservation, lease, or other permit for the use, occupancy or disposition of those public lands will have on subsistence uses<sup>1</sup> or needs and the

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<sup>1</sup> Subsistence uses means the customary and traditional uses by rural Alaska residents of wild renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation ... [ANILCA Section 803]

availability of other lands for the purposes sought to be achieved and other alternatives which would reduce or eliminate the activity. The evaluation must be carried out in accord with the provisions of Section 810.

### **Exclusive and Perpetual Use**

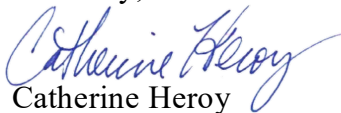
The proposed rule change needs a clarification about whether the Forest Service seeks only to a) authorize exclusive and perpetual use to the subsurface estate where the carbon dioxide will be stored or b) authorize exclusive and perpetual use of the surface estate as well as the subsurface. While we anticipate that some surface disruption will occur during the well construction and remediation process, we do not anticipate that surface work would require permanent exclusive use. We are aware that EPA Permits for this process have a 50-year timeline. We request the Forest Service use authorization for the surface estate align with EPA's authorizations.

We request this clarification in the proposed rule, and we request the Forest Service not authorize exclusive surface uses that would obstruct access and other uses of the surface estate.

### **Closing**

Thank you for the opportunity to comment. Please contact me at (907) 269-0880 or by email at [Catherine.heroy@alaska.gov](mailto:Catherine.heroy@alaska.gov) to coordinate any follow up discussions.

Sincerely,



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