

October 29, 2019

Objection Reviewing Officer
USDA Forest Service Alaska Region
709 West 9th Street
Juneau, AK 99801

Submitted electronically

To whom it may concern,

Alaska Wilderness League, Eyak Preservation Council, WildEarth Guardians, The Wilderness Society, and Wilderness Watch file this objection to the Chugach Forest Plan Revision Draft Record of Decision, the Final Land Management Plan, and the Final Environmental Impact Statement, as noticed on August 30, 2019 - Jeff Schramm, Chugach National Forest Supervisor, Responsible Official. All groups on this objection filed comments during the scoping and/or draft EIS comment periods, with all but Wilderness Watch commenting in letters dated February 18, 2016 and November 1, 2018. Wilderness Watch filed comments on the points raised in this objection during scoping, in their letter dated February 19, 2016. Therefore, we have standing to object under 36 CFR 219.54.

The groups raised each concern below in at least one of those letters, with the exception of the removal of the Minimum Requirements Analysis in the Final EIS. We didn't comment on this element of the final plan at the Draft EIS phase, since using MRA for WSA decision-making was still included at that time, and we saw no indication that it would be removed in the Final EIS. However, we did flag our interest in using this planning process to better protect the integrity of wild lands in the Wilderness Study Area. As a result, we have grounds for objecting to the removal of an MRA tool in the final draft, particularly in light of the other concerns we have surrounding WSA management.

Our specific concerns are as follows:

- 1. We object to the 'presently existing character' management standard used throughout the MA 1 prescription, as 'presently' includes no definition in the final EIS or draft Record of Decision, and the standard fails to ensure ample protections of the wilderness character of the Wilderness Study Area.**

The past two Chugach management plans have directed decisionmakers to protect 'presently existing *wilderness* character' of the Wilderness Study Area, while the final EIS and draft ROD omits 'wilderness' in this direction. We assert that maintaining the wilderness character of the Wilderness Study Area is a primary obligation of the Forest Service when it comes to the management of a Wilderness Study Area. It appears that the Forest Service has a different interpretation of their explicit obligations on the Chugach National Forest under the 2012 Planning Rule. We also believe that, broadly, ANILCA and the Wilderness Act place obligations on the agency to manage the Wilderness Study Area to protect the wilderness character of the lands, and that protecting the presently existing characteristics will fall short of this standard. We are troubled to see the Forest Service response to comments in Appendix II of the Final EIS, where the agency stated that *there is no legal mandate to protect "wilderness character" in the*

wilderness study area.”¹ Given this statement, and several other changes which alters how the agency weighs impacts versus benefits of proposed activities in the WSA, we feel that dropping wilderness from ‘presently existing character’ underemphasizes the agency’s responsibilities within the WSA, particularly as that area is still an ‘injured resource’ due to damage that remains from the Exxon Valdez Oil Spill².

Furthermore, it isn’t clear what ‘present’ means in the Final EIS and draft Record of Decision, and in fact, the planning record speaks more to what ‘present’ *doesn’t* mean rather than what it *does* mean. In response to a comment requesting that ‘present’ be tied to conditions observed when the Wilderness Study Report for the Chugach was completed, the Forest Service response stated that “*we believe it is possible to maintain the area’s character and potential for inclusion in the National Wilderness Preservation System without pinning the area’s character to a particular date, such as 1987, which could be considered arbitrary.*”³

The Forest Service conclusion that the pinning ‘present’ to any particular date ‘could be considered arbitrary’ leaves great uncertainty to how this word may or may not be interpreted by Forest Service personnel as decisions arise, whether in permitting new activities or restoring damage from unforeseen or even foreseen human impacts. While we understand the need to remain flexible in the face of climate change and thus to rapidly changing forest and human use patterns, without the ‘wilderness’ qualifier that past plans have had, the phrase fails to provide any meaningful measurement standard in the 34 instances it’s used in the Final EIS. Finally, leaving ‘present’ undefined also runs counter to the Forest Service Manual, which sets the management standard to ‘nondegradation of conditions’ as observed when the unit was established⁴.

To remedy the issues above, we recommend inserting ‘wilderness’ back into the final plan where ‘presently existing character’ is outlined as a management standard within the Wilderness Study Area.

2. Restore a Minimum Requirement Analysis for decisions that have the potential to impact the WSA’s wilderness character.

We were surprised to see the removal of a Minimum Requirement Analysis (MRA) tool between the Draft EIS and final plan. This tool is a critical piece of how the agency fulfills its stewardship responsibilities of the WSA, to ensure that the character of the WSA remains suitable for eventual inclusion into the National Wilderness Preservation System.

An MRA is *the* tool that federal public lands agencies use to ensure that an activity is necessary and appropriate in a WSA, determine that it won’t significantly impact wilderness characteristics of a WSA, and weighs how a final decision causes the least amount of harm to any wilderness characteristics that could be threatened by an action. Not including this tool, in light of the erosion of how the agency reviews its obligations to the WSA in the final plan, is highly

¹ Chugach Final EIS Appendix II, Page 32

² Chugach Final EIS – Volume 1, page 186

³ Chugach Final EIS – Volume 1, Page 36

⁴ FSM Region 10 – Chapter 2320 – Wilderness Management dated Nov 25, 2008

problematic for an agency that – as we described above – is charged with protecting the wilderness character of the WSA until Congress acts on a Wilderness recommendation.

At this point, we'd like to note that several other elements of the Draft EIS which pertain to protecting the wilderness character of the WSA were also absent from the Final EIS. Instructions to forest managers to limit motorized equipment and mechanized transport, along with criteria related to commercial filming in the WSA was present in the draft, but not the final EIS. We object to the removal of these portions of the Draft EIS in light of the removal of the MRA as the tool which could be used to analyze the specifics of these particular uses in the years ahead.

For those reasons, we urge the agency to restore an MRA tool for the WSA in the final plan.

3. The final plan should apply MA 1 – Wilderness Study Area protections to EVOS acquired lands that are within the boundary of the WSA.

While we acknowledge that the management of lands are complicated when surface and subsurface rights are split, the final Plan should not separate EVOS-acquired lands that fall within the WSA into a separate management area – MA6. Past Chugach plans haven't differentiated between the two, and the same approach should be maintained in this final plan.

We draw this conclusion after reviewing the Chenega purchase agreement, which was designed to restore the wilderness services that were damaged by the Exxon Valdez oil spill in the WSA. The Forest Service is bound to this agreement for these EVOS acquired lands within the WSA, and this agreement to manage for conservation and wilderness purposes lasts in perpetuity. While we acknowledge that the stipulations on particular parcels may require more stringent management of the resource than articulated in MA 1, we see MA 1 as the baseline standard of protection for these lands, with any covenants that offer additional protection within the agreement being layered on top of the MA 1 prescription.

Finally, as the purchase agreement is clear that these lands should be managed in perpetuity for conservation and wilderness purposes, it seems only prudent that the Wilderness recommendation for the Chugach also include these EVOS-acquired lands in the final plan.

To fix these issues, the Forest Service should classify EVOS-acquired lands within the WSA as a part of the Wilderness Study Area Management Area (MA 1), and recommend these lands for inclusion in the National Wilderness Preservation System.

4. A larger Wilderness recommendation – including EVOS lands, and nearly all lands evaluated in Alternative D – would best protect the variety of uses in the Chugach today and the future.

As articulated in our Draft EIS comments dated November 1, 2018, we were heartened to see the development of Alternative D for public review. To accommodate a variety of user groups within the WSA, particularly in the uplands above Whittier and along the shore of Blackstone Bay, we saw merit in adjusting the Alternative D map to match Alternative C in those heavily trafficked – by Chugach standards – regions of the forest.

The Final EIS notes that, in scoping, most people wanted to see more proposed Wilderness than was recommended in the 2002 plan. It also notes that, in the Draft EIS comment period, public comment was split, with equal interest from those who desire more recommended Wilderness, and those who want less. The substance of these comments should be carefully considered, as many who advocated for a larger recommendation – including the groups signed to this letter – did so with the intention of keeping these areas intact for future generations, and to provide a foundation for recreation, tourism, and wildlife alike. Many comments from those opposed to increasing the Wilderness recommendation in the Draft EIS phase were driven by a fear that a Wilderness recommendation would decrease motorized riding opportunities, specifically on the Kenai Peninsula. Since such a recommendation would have no bearing whatsoever on winter over-snow activities outside of the WSA, we fail to see a substantive reason for not adopting a stronger recommendation in the final plan.

To fix this issue, reviewing the record and recommending the Alternative D map - with changes near Whittier and Blackstone Bay that match Alternative C – would best reflect the substantive public comment on this issue.

5. Particularly with the Forest Service’s surprise proposal to eliminate protection for Chugach National Forest roadless lands, we object to the Forest Service’s failure to explicitly incorporate Roadless Rule protections for all Inventoried Roadless Areas in the Management Plan, as the plan relies on these standards greatly for forest management.

We raised this issue in our draft EIS comments dated November 1, 2018 in response to the Alaska Specific Roadless Rule process for the Tongass National Forest that was then just beginning, when forest planners were unclear on whether that process would include the Chugach in the review. Now, just one week before the filing of this objection letter, our concerns have been validated with the release of the Draft EIS for that rulemaking. For lands located in the Chugach National Forest, the Federal Register indicates that *‘the Regional Forester for the Alaska Region may issue modifications to the classifications and boundaries of an Inventoried Roadless Area after a 45-day public notice and opportunity to comment period.’*⁵

While we will vigorously oppose this language in that separate regulatory process – and indeed, there are numerous legal and public process considerations with that approach to undoing the Roadless Rule in the Chugach – we want to state again, particularly in light of this development, that incorporating specific Roadless Rule protections for IRAs in the Chugach Management Plan is highly appropriate at the forest plan level. We acknowledge and appreciate the response to our comments in Appendix II of the final EIS, and have noted the final EIS assumes that ‘all currently designated areas, such as research natural areas and inventoried roadless areas, would remain in place⁶.’ We also note that a Commercial Harvest Timber Program was considered but eliminated from detailed study due to the existence of the Roadless Rule, along with the small potentially suitable timber base⁷. These statements all imply that the plan assumes the continued applicability of the Roadless Rule in the Chugach during the years ahead. However, that assumption is no longer valid in light of the Forest Service’s proposal to allow the Alaska

⁵ Federal Register / Vol. 84, No. 201 / Thursday, October 17, 2019 / Proposed Rules – pg. 55529

⁶ Chugach Final EIS – Volume 1, page 24

⁷ Chugach Final EIS – Volume 1, page 35

Regional Forester to eliminate Roadless Rule protection for any and all roadless areas on the Chugach for any reason, or no reason at all.

It is nearly certain to assume that the Chugach planning process – and associated comment periods – would have been very different if the Roadless Rule wasn't in place, even for just a portion of the forest. As noted in the Final EIS, *'With the breadth of the wilderness study area and the amount of roadless areas outside the wilderness study area, interest in wilderness area recommendations outside the wilderness study area was lacking.'* This conclusion resonates with the groups that are signing this objection, and it is safe to assume that, at the very least, our comments during scoping and the draft EIS phase of the Chugach planning process would have been greatly different if the Roadless Rule was not in place for the forest.

To make a durable plan for the forest that won't be impacted if future administrative action attempts to remove the applicability of the Roadless Rule for all or part of the Chugach, a remedy is to clarify that exemptions allowing road construction or re-construction activities should be guided by the standards of the Roadless Area Conservation Rule in the Chugach, and that exempting all or portions of the Chugach from the Roadless Rule – as currently envisioned in the Draft EIS for the Alaska Specific Roadless Rule – cannot occur. From this, it would follow that timber should not be removed unless provided for by the national Roadless Area Conservation Rule as it applies to the forest today.

Thank you for considering this objection letter. On a closing note, we truly believe that the Chugach – if managed properly – can continue to be the iconic place where Alaskans and Americans alike can experience their public lands in a variety of different ways. Whether it's a kayak trip out of Whittier or riding a snowmachine on Turnagain Pass, it's a landscape that can provide for all, today and into the future. We hope you'll consider the points in this objection as the best route forward to safeguard these experiences for future generations, and we stand by if any further information is desired.

Sincerely,

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