

# STATE OF ALASKA

## CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

*SEAN PARNELL,  
Governor*

*3700 AIRPORT WAY  
FAIRBANKS, ALASKA 99709*

*PHONE: (907) 374-3737*

*FAX: (907) 451-2751*

March 5, 2012

Harris Sherman, Under Secretary  
Natural Resources and Environment  
USDA Forest Service  
1400 Independence Ave., SW  
Washington, D.C. 20250-0895

Dear Mr. Sherman:

The Citizens' Advisory Commission on Federal Areas has reviewed the proposed final regulations for National Forest System Land Management Planning found in Appendix I of the Final Programmatic Environmental Impact Statement (PEIS). The Commission previously submitted comments on the draft PEIS and regulations. A copy of those comments can be found in Appendix P of the final PDEIS. We offer the following comments for consideration prior to the signing of a record of decision and adoption of final planning regulations.

We note from our review that the proposed final regulations still fail to include reference to the Alaska National Interest Lands Conservation Act (ANILCA). While we appreciate that the regulations cannot include a comprehensive list of all applicable laws, failure to include specific reference to ANILCA is extremely disappointing given its importance in guiding management and planning for the National Forest Lands in Alaska. The U.S. Forest Service has shown an increasing reluctance to recognize provisions in ANILCA, particularly if those provisions are unique to Alaska. The result of this effort to create a "one size fits all" management approach for the National Forest System has been the development of policies and management decisions in Alaska that too often fail to meet the requirements of the act and which ignore the intent of Congress.

More importantly, we find that these regulations themselves violate key provisions of ANILCA. For example, §219.7(c)(v) requires the Forest Service to identify and evaluate lands that may be suitable for designation as wilderness even though ANILCA prohibits such evaluations unless authorized by Congress. Similarly, §219.7(c)(vi) requires review of rivers for their suitability for designation as wild and scenic. However, ANILCA Section 1326(b) prohibits such reviews. This section clearly states:

*(b) No further studies of the Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress”*

Section 708(4)(b) of ANILCA also restricts any further wilderness review in Alaska by the Forest Service:

*Unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System Lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.*

Congress clearly retained for itself the sole authority for future studies or reviews for the purpose of creating additional conservation system units, including designated wilderness areas and wild and scenic rivers, in Alaska. We again request the inclusion of language in these two sections stating that no wilderness review or wild and scenic river review is required when preempted by law, such as ANILCA.

Other ANILCA provisions that may be overlooked in the planning process if appropriate references are not included in the final rule include: provisions for land exchanges (ANILCA Section 1302), conveyances (ANILCA Title IX) and boundary adjustments (ANILCA Section 103). The planning regulations should also recognize ANILCA Title XI – *Transportation and Utility Systems In and Across, and Access Into, Conservation System Units* for the permitting and development of transportation and utility system corridors and general public access in the case of designated Wilderness and Forest Service Monuments in Alaska. Access to inholdings within National Forests in Alaska (ANILCA Sections 1110(b) in the case of conservation system units and 1323(a) for the remaining National Forest lands) and recognition of the public’s rights of access, including motorized access, for subsistence activities (ANILCA Section 811) and special access to conservation system units (ANILCA 1110(a)) should be referenced in the final planning regulations. Recognition of the access provisions in Title XI in the final planning regulations is particularly important since the Forest Service has never promulgated regulations implementing the permitting procedures and access protections found there.

The Commission renews its request to revise the regulation at §219.53 to broaden the scope of who may file an objection to a plan, plan amendment or plan revision. Provisions should be made for an individual who has submitted substantive formal comments to submit an objection under §219.54 verbally. The definitions found in §219.62 define *substantive formal comments* as “Written comments submitted to, **or oral comments recorded by**, the responsible official or his designee during an opportunity for public participation....” Therefore, we believe that provisions need to be made for filing an objection or protest verbally. Our experience in working with the public in Alaska demonstrates that many people that participate in a planning process by attending public meetings and presenting

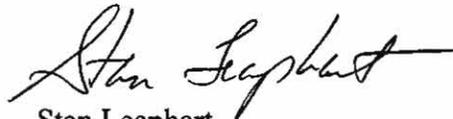
formal verbal comments at those meetings would be precluded from filing an objection if it had to be filed in writing.

We understand that the Forest Service will be developing a set of planning directives to provide further guidance on implementation of the final rule and that the public will be afforded the opportunity to review and comment on these directives. The Commission strongly encourages the U.S. Forest Service to establish a well structured and open public outreach program to involve the public in the development of these planning directives. We suggest a minimum 60 day public review and comment period for any draft directive. Notice of availability should be published in the *Federal Register* as well as in local and state-wide newspapers. Opportunities for public meetings, work-shops or open house question and answer sessions also should be provided.

The Commission asks that you consider these comments as well as those we submitted on the draft PDEIS and draft regulations. In view of the fact that the Chugach National Forest in Alaska will be among the first national forests to revise its land management plan under the new planning rules, we believe that it is critical that the unique provisions found in the Alaska National Interest Lands Conservation Act be fully acknowledged in the final planning rules.

Please contact this office if you have questions or if we need to clarify our comments.

Sincerely,



Stan Leaphart  
Executive Director

cc: Governor Sean Parnell  
Kip Knudson, Office of the Governor  
Chris Maisch, Director, DNR Division of Forestry  
Susan Magee, ANILCA Program Coordinator  
Beth Pendleton, Alaska Regional Forester  
Ruth Monahan, Alaska Deputy Regional Forester