



February 19, 2016

Chugach National Forest's Supervisor's Office  
Attn: Forest Plan Revision  
161 East 1<sup>st</sup> Street, Door 8  
Anchorage, AK 99501

Re: Proposed Revised Land Management Plan

Dear Ms. Marceron:

Enclosed are comments of Chugach Alaska Corporation ("CAC") on the December 2015 Proposed Revised Land Management Plan (the "Plan") for the Chugach National Forest ("CNF").

CAC is the Alaska Native regional corporation for the Chugach region established pursuant to the Alaska Native Claims Settlement Act of 1971 ("ANCSA"). CAC owns or has valid selection rights to over 625,000 acres of full fee estate and subsurface estate within the boundaries of the CNF pursuant to ANCSA. This makes CAC the largest private landowner within the CNF boundaries. In addition to ANCSA, CAC's rights with respect to its lands and adjacent CNF lands are governed by the Alaska National Interest Lands Conservation Act of 1980, and the 1982 Chugach Natives, Incorporated Settlement Agreement.

CAC's comments are provided in two groups. First we present comments about the Plan generally. These comments do not address specific provisions of the Plan, or address matters that are covered by multiple provisions of the Plan. After the general comments, CAC presents comments that are tied to specific provisions of the Plan. Generally the comments do not propose specific language to address the comments. Please let me know if you would like CAC to provide suggested revisions to the Plan to reflect these comments. A list of acronyms and defined terms used in the comments also are enclosed.



If you any questions about these comments, please feel free to contact me to discuss.

Sincerely,

A handwritten signature in blue ink that reads "Sheri Buretta".

Sheri Buretta  
Chairman of the Board

Enclosures

Cc: Dave Phillips, Chugach Senior Manager Lands



## Acronyms and Defined Terms used in Comments

The following acronyms and defined terms are used in the general and specific comments by Chugach Alaska Corporation:

ANCSA	the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. § 1601 <i>et seq.</i>
ANILCA	the Alaska National Interest Lands Conservation Act of 1980, P.L. 96-487
BLM	Bureau of Land Management
CAC	Chugach Alaska Corporation
CNF	Chugach National Forest
CNI Settlement Agreement	the 1982 Chugach Natives, Incorporated Settlement Agreement
FLPMA	Federal Land Policy and Management Act of 1976, P.L. 94-579
IRA	the inventoried roadless area described in the Plan
NFS	National Forest System
Plan	the USFS Proposed Revised Land Management Plan (December 2015)
Roadless Rule	the 2001 Roadless Area Conservation Rule, 36 C.F.R. § 294.10 <i>et seq.</i>
USFS	United States Forest Service
WSA	the Nellie Juan-College Fiord Wilderness Study Area

## **General Comments**

The following comments by Chugach Alaska Corporation address the Plan generally, or address matters that are covered by multiple specific provisions of the Plan.

### **1. Changes from current plan**

The Plan should describe, in some detail, how the proposed Plan differs from the current (2002) land management plan for the CNF. CAC has identified some changes. For example, rather than recommending wilderness status for the WSA, as provided in the current CNF plan, the Plan contemplates managing the WSA as a wilderness until Congress acts but makes no recommendation. An explanation of how the Plan will change current USFS management of the CNF will allow the public and USFS personnel to focus on the changes proposed.

### **2. Scope of the Plan**

Although it is implied, the Plan should expressly state that it applies only to land owned or managed by the USFS. It does not apply to private, state or municipal land that is within the exterior boundary of the CNF.

### **3. Conflicting goals and desired conditions**

From time to time it is likely that goal 1 and goal 2, and their related desired conditions, will lead to conflicting management actions. An administrative action that would contribute to social and economic sustainability may degrade ecological sustainability, or vice versa. How will the USFS consider and resolve those conflicts? The Plan does not acknowledge the possibility of conflicts or provide any guidance for resolving conflicts.

### **4. Lack of priorities; priority for economic sustainability and opportunity**

Similar to the lack of discussion of the relationship between goal 1 and goal 2 (general comment 3), for the most part the Plan does not express priorities among desired conditions. Without priorities, there is no direction for resolving conflicts between desired conditions and their resulting objectives, standards and guidelines.

CAC believes that the highest priority must be a desired condition, and related objectives, standards and guidelines, that promotes economic sustainability and opportunity for communities in the Chugach region: Chenega Bay, Tatitlek and Cordova. The desired condition, and associated objectives, standards and guidelines, should assist these communities in becoming viable and prosperous. This priority should apply particularly to CNF land in the vicinity of these communities. If promoting economic

sustainability and opportunity for communities was a priority – as it should be – there are many objectives, standards and guidelines that could be developed to achieve this desired condition.

Partly reflecting this lack of priorities in the Plan, the Plan barely recognizes these communities living in the CNF. The USFS's November 2014 Assessment of Ecological and Socio-Economic Conditions and Trends, which underlies the Plan, devotes many pages to the socio-economic conditions in the CNF, but almost the entire discussion consists of macroeconomics relating to southcentral Alaska and the Kenai Peninsula. There is no analysis of the stresses and problems faced by residents of Chenega Bay, Tatitlek and Cordova, the changes that have occurred in these communities since the 2002 land management plan was adopted or that are likely to occur during the Plan's term, or the opportunities for the CNF to remedy them.

## **5. Relationship between desired conditions, objectives, standards and guidelines**

The Plan should include a cross-reference index showing which objectives, standards and guidelines are intended to achieve which desired conditions, and which desired conditions are supported by which objectives, standards and guidelines. For example, FW-G2-DC-03 expresses a desired condition of jobs and economic well-being and FW-G2-DC-17 expresses a desired condition that forest products are available for harvesting for cultural, personal, and commercial use in a sustainable manner. Although a number of objectives, standards or guidelines are provided under goal 2, it does not appear that any objectives, standards and guidelines are focused on achieving these desired conditions. As a consequence, it will be simply happenstance if these desired conditions are advanced. The Plan does not provide any plan to achieve these desired conditions.

Cross-reference indices will make clear the connection, or lack of connection, between each desired goal and the underlying objectives, standards and guidelines. Without a cross-reference index, the relationship between the desired conditions and the objectives, standards and guidelines often is murky and speculative.

## **6. Consultation with ANCSA corporations and tribes**

The USFS is required to consult with affected ANCSA corporations and tribes regarding proposed policy statements or actions that have substantial direct effects on Alaska Native tribes. 36 C.F.R. § 219.4, Executive Order 13175. The Plan will have that effect on CAC and the village corporations and tribes within the Chugach region. It will materially affect the lives and livelihoods of Native residents of Chugach region communities, as well as the economic opportunities of CAC and the Chugach village corporations.

USDA Departmental Regulation 1350-002 defines consultation as “the timely, meaningful, and substantive dialogue between USDA officials who have delegated authority to consult, and the official leadership of Federally recognized Indian Tribes [and ANCSA corporations] . . . pertaining to USDA policies that may have tribal implications.” Consultation “requires USDA to take the Tribes’ views, information, rights, and interests into serious, deliberative consideration.”

The USFS did consult with affected ANCSA corporations and tribes, including CAC, in connection with the Land Management Plan Assessment in 2012. However, several years has elapsed since that time, the USFS process and its proposed action has become more defined, and the interests of the ANCSA corporations and tribes have evolved. Furthermore, over the past decade CAC has submitted numerous comments on various aspects of the USFS’s planning effort. Even though CAC has repeated several of its comments several times, there has been no apparent consideration or response by the USFS. No one seems to be listening.

CAC has learned that several Chugach region village corporations were unaware of recent USFS meetings respecting the Plan, which illustrates the lack of consultation by the USFS with the affected Native corporations and tribes.

The USFS should initiate consultation with the affected ANCSA corporations and tribes, including CAC, regarding the Plan to provide information and discuss CAC’s concerns respecting the Plan. As noted in the USDA regulation, public notice inviting comments, and comments made in response to that notice, are not sufficient to constitute consultation. The USFS should consult with CAC and engage in meaningful dialog about the Plan.

## **7. Term**

The Plan should state its term, and describe its effect after the term expires. The Plan states, in “Purpose of the Forest Plan” on page 2, that the Plan provides guidance and information for decisionmaking for the next 10-15 years, but there is no explicit statement of the Plan term or what will happen at the end of the Plan term. The USFS regulations under the National Forest Management Act, 36 C.F.R. § 219.7, require that the Plan be revised at least every 15 years. If that is the Plan’s timeline, it should be stated expressly. If the Plan has a shorter planning horizon, that should be stated. 36 C.F.R. § 219.11 requires that suitability of CNF land identified in the Plan as not suitable for timber production be reviewed at least once every 10 years. This requirement should be incorporated into the Plan.

## **8. CAC land**

The Plan is grossly deficient in not specifically or extensively addressing CAC and its land. CAC owns or has valid selection rights under ANCSA to over 625,000 acres within the exterior boundaries of the CNF. CAC is the largest private landowner within the boundaries of the CNF. The legislative history of ANCSA is clear that Congress intended for CAC to use its land for economic development for the benefit of Alaska Natives. ANILCA and the CNI Settlement Agreement reaffirmed this objective. In furtherance of this goal, CAC selected its land for several reasons, including economic development. Its obligations to its Alaska Native shareholders, as well as to Alaska Native shareholders throughout the state of Alaska, require CAC to pursue responsible economic development of its land.

Some of CAC's land is owned in full fee title (both surface and subsurface estates). Some of CAC's land is owned in fee title to just the subsurface estate. The surface estate is owned either by an ANCSA village corporation (Chenega Corporation, Eyak Corporation or Tatitlek Corporation), or is owned by or managed by the USFS as the result of EVOS sales by these village corporations (the "split estate" land). Thus, CAC owns substantial tracts of land both adjacent to and underlying CNF land. Most of CAC's economically viable land is adjacent to or surrounded by CNF land. The village corporations also own the surface estate to land adjacent to CNF land.

This has several consequences, which are essentially ignored by the Plan.

CAC intends to use or realize economic benefit from its land. This will lead to CAC developing its land (either its subsurface estate or its surface estate). By "develop," we intend to include all uses and activities CAC may wish to undertake respecting its land. As to split estate land, this will necessarily have some impact on the surface estate that is managed by USFS under the Plan since CAC will need to pass through and use the surface estate to develop the subsurface estate. As to land where CAC owns both the surface and subsurface estate, as well as land in which a village corporation owns the surface estate, development of CAC's land may have indirect impacts on adjacent CNF land. For example, activity on CAC land may be visible from CNF land and legally permitted air emissions from CAC's land may drift over CNF land.

Furthermore, CAC will need to cross over and use CNF land in connection with developing CAC's land. CAC's has a right to do so. Under ANILCA § 1110(b), 16 U.S.C. § 3170(b), CAC is entitled to cross the WSA as may be necessary to assure adequate and feasible access for economic and other purposes. Under ANILCA § 1323(a), 16 U.S.C. § 3210(a), CAC is entitled to access over USFS land that is adequate to secure the reasonable use and enjoyment of its land. Under the CNI Settlement Agreement, the United States agreed to convey certain land to CAC. In that agreement,



the United States agreed, for example, in section 8 that CAC has the right to cross federal land to the Bering River coal fields under specifically defined conditions and procedures, including the right to use timber and common varieties of mineral materials in connection with construction and maintenance of access routes and associated facilities. As a contract, the CNI Settlement Agreement implies certain other access rights. CAC also has common law rights to cross and use CNF land to access its subsurface estate.

Incidentally, CAC's ANILCA access rights apply to the entire CNF, including portions of the CNF that pre-existed adoption of ANILCA and its expansion of the CNF. Under ANILCA § 1323(a), in particular, CAC is assured access "notwithstanding any other provision of law" over land within the NFS. Section 1110 assures access over the WSA "notwithstanding any other provision of this Act or other law." CAC also has contract, common law and ANCSA-based valid existing rights that would apply to the pre-existing CNF.

Notwithstanding its rights to cross over and use CNF land in connection with developing CAC's land, USFS management of the CNF in accordance with the Plan could impede CAC's exercise of its rights to use and develop its land.

CAC's use of its land, as well as use of CNF land to access CAC's land, necessarily will have some impact on CNF land and may prevent or impair achieving the goals and desired conditions provided in the Plan.

CAC has previously provided to the USFS reasonably foreseeable access routes across CNF land to access CAC land. Use and construction of these access routes will depend on future CAC decisions to develop its land. However, these access routes should be shown on the Plan's maps, and should be addressed in the Plan. For example, if CAC decided to construct a road in an area that is currently roadless, this may affect its suitability for wilderness designation or whether other compatible or related uses should be permitted, such as selling timber in the vicinity of the road.

The Plan essentially ignores the rights of CAC and the impacts of CAC exercising its rights on management of the CNF. This is like a college football coach spending his winter months planning for the next season while ignoring the fact that many of his starting players either will graduate or be drafted before the next game is played. The plan cannot succeed. Responsible planning for the CNF cannot ignore the activities and rights of CAC and how they will affect the CNF.

Therefore, the Plan should include a desired condition and objective assuring that CAC's land ownership and access rights are honored. This desired condition should have top priority (see general comment 4). The Plan should acknowledge that CAC's access rights are superior to the Plan's goals, desired conditions, objectives, standards and guidelines. That is, the USFS will honor CAC's access rights even if that would be



inconsistent with the Plan's goals, desired conditions, objectives, standards and guidelines.

The Plan then should address how the USFS will administer the CNF in light of CAC's land ownership and access rights. CAC would prefer that the Plan set a tone of cooperation and collaboration with CAC, rather than adversity. The Plan also should address land ownership and access rights by other large inholders (primarily village corporations and the state of Alaska, including set net fishermen).

The Plan also should approve cooperation and collaboration between CAC and the USFS to achieve the Plan's overall goals and desired conditions even though this may deviate from some specific Plan provisions. For example, it may be possible that placing infrastructure on CNF land to support development of CAC land will enhance social and economic sustainability and ecological sustainability of the CNF as a whole, in which case this should be allowed even if inconsistent with the Plan when limited just to CNF land. The Plan also should approve cooperative management of lands owned by both the USFS and CAC.

## **9. Inventoried roadless area**

The effect of the IRA, including Map 7, is very unclear in the Plan. The IRA is designated as a "special area" on page 24, FW-G2-DC-21. This is a desired condition. This special area, the IRA, is not mentioned elsewhere in the Plan.

This special area desired condition has no associated objectives, standards or guidelines. As a consequence, no direction is provided in the Plan for decisionmaking within the IRA.

Furthermore, some standards and guidelines for management areas that are within the IRA are inconsistent with the Roadless Rule. For example, under 36 C.F.R. § 294.12 roads may not be constructed except in seven specific instances. Under MA5-GL-05, it appears that roads may be authorized for development of mineral or oil and gas deposits. It would be more understandable and less confusing to delete this IRA special area and expressly incorporate into the management areas, as appropriate, any restrictions required by the Roadless Rule.

Also, FW-G2-DC-21 is worded more as a standard than a desired condition. As a desired condition, it should be worded as "The undeveloped character of inventoried roadless area is retained to the extent required by the 2001 Roadless Area Conservation Rule." As proposed in the Plan, the wording establishes a default decision of restricting road construction, road reconstruction and timber harvest activities, provided the restriction is consistent with the Roadless Rule. Only if a restriction is inconsistent with the Roadless Rule would restriction not be appropriate. Instead, such road and timber

harvest activities should be restricted only if required to be restricted by the Roadless Rule. In all other cases, such activities should be restricted or permitted in accordance with the Plan. There should not be a default decision to restrict such activities.

Road construction by CAC in connection with access to its land over CNF land is not prohibited by the Roadless Rule. CAC has a right to access its land, as described in general comment 8. This access right is protected by 36 C.F.R. § 294.12(a)(3) and should be expressly confirmed in the Plan.

Under the Roadless Rule, road construction is permitted in an IRA only under certain exceptions. According to Map 7, road construction and reconstruction is allowed in approximately half of the IRA. No explanation is provided in the Plan or the Roadless Rule as to why road construction and reconstruction is permitted in these areas. Why is road construction and reconstruction categorically permitted in these areas, notwithstanding the Roadless Rule? What standards and guidelines apply to this road construction and reconstruction? The Plan does not answer these questions.

## **10. Acquisition and exchange; easements**

Multiple provisions of the Plan address acquisition and exchange of land within the CNF. These are identified in CAC's specific comments.

CAC is distressed about the emphasis given in the Plan to acquiring private land. As the largest private landowner within the CNF boundaries, CAC is the most likely target for acquisition and exchange of land. CAC received its land under ANCSA as a settlement of Native claims with the United States. A USFS plan to acquire CAC land would be, in effect, a plan to undo this settlement. This is a very inappropriate objective for a federal agency. The United States should support its settlement with Alaska Natives, not take steps to diminish it.

Acquisition and exchange should be a means to an end, not an end itself. CAC does not object to a desired condition generally stating that adjusting and consolidating land ownership may be appropriate to achieve other desired conditions in the Plan. This can and should be accomplished through existing USFS authority.

Nothing more needs to be provided in the Plan on this topic. Expanding on this desired condition, or making land acquisition and adjustment an objective or guideline, will result in USFS decisionmaking that is motivated by the objective or guideline. This is unnecessary. If CAC wishes to sell, acquire or exchange land, CAC and the USFS can do so under existing authority and this would be appropriate under a general desired condition. If CAC does not wish to sell, acquire or exchange land, the USFS should not have a directive in the Plan that focuses USFS staff on acquisition and that may affect USFS decisionmaking relating to the CNF and CAC. Acquisition or exchange may be

desirable, but whether it occurs should be irrelevant to management of the CNF. Acquisition and exchange should not be an objective of the Plan. It will simply result, under current authority, if desired by all affected persons.

The Plan expresses the need to assure access to CNF land through development of easements and rights-of-way. Most CNF land has marine or highway access. CAC is unaware of any problem of inadequate legal access to CNF land, and the Plan does not provide any examples or description of a need for additional access to CNF land over private land.

To the extent access to CNF land is over private land, almost all of that private land is owned by CAC or other Native corporations. There was a process under ANCSA and the CNI Settlement Agreement by which scores of easements were reserved across these private lands to access the CNF. This should be sufficient. If the USFS decides it needs additional easements, notwithstanding the easements already reserved, it should first explain why the reserved easements are inadequate. Any additional easements should be acquired through existing authorities and practices. This concept of acquiring more land (from CAC) should be removed from the Plan, or should be subsumed under a general statement of a desired condition without any associated objectives, standards or guidelines.

## **11. Termination of wilderness study area**

CAC believes that the Nellie Juan-College Fiord Wilderness Study Area should be terminated. The WSA was created in ANILCA § 704. Specifically, in 1980 Congress directed the Secretary of Agriculture to study the WSA and make a recommendation, within three years, of the suitability or unsuitability of the WSA for preservation as a wilderness.

CAC understands that in 1984 the USFS recommended to Congress that most of the WSA be designated as federal wilderness, as well as approximately 48,000 additional acres in the upper Snow River area on the Kenai Peninsula. In the 2002 land management plan the USFS made a smaller wilderness area recommendation to Congress. To date, Congress has not acted on any recommendation.

Unlike several other statutes creating wilderness study areas, ANILCA did not require that the WSA be managed as a wilderness while the wilderness recommendation was pending in Congress. In contrast, the Wilderness Act of 1964 required the Secretary of Agriculture to determine suitability of “primitive” national forests as of 1964 for wilderness and to administer such areas as “primitive” until Congress acted. 16 U.S.C. § 1132(b). FLPMA provided for the BLM to review its roadless areas for suitability and recommendation as a wilderness. The BLM was directed to manage the roadless areas in a manner so as not impair the suitability of the areas for wilderness designation during

the period of review and until Congress determined otherwise. FLPMA § 603, 43 U.S.C. § 1782. Less than three weeks after adopting ANILCA Congress designated USFS land in New Mexico for wilderness study and provided that the Secretary of Agriculture maintain the wilderness character of the study lands “until Congress determines otherwise.” P.L. 96-550 § 103(b) (December 19, 1980).

In 1980 Congress knew how to provide that the wilderness character of a study area be preserved until Congress acted, if that was what Congress wanted. It did not so provide in ANILCA when it created the WSA.

Indeed, to the extent ANILCA addressed the issue, Congress rejected continuing administration as a wilderness pending Congressional action. In ANILCA § 1317 the Secretary of Interior was directed to review the suitability for preservation of wilderness of land within the national park system and national wildlife refuge system, and make recommendations. However, Congress expressed that this direction was not to be construed to affect administration of the identified land in accordance with applicable law pending Congressional action. In ANILCA § 1320 the Secretary of Interior was directed to review the suitability for preservation of wilderness of BLM land, and make recommendations. FLPMA § 603 (which required management as wilderness pending Congressional action) was made inapplicable and the Secretary was directed to manage the identified land in accordance with generally applicable plans and law in the absence of Congressional action. In other words, in both instances in ANILCA when Congress considered administration of land potentially suitable for wilderness designation, Congress directed that the agency not manage the identified land as wilderness pending Congressional action.

Congress expected lands added to the CNF by ANILCA to be administered in accordance with ANILCA and other laws, regulations and rules generally applicable to the NFS. ANILCA § 501(b). It did not require or expect ongoing management as a wilderness.

To the contrary, in ANILCA § 1326 Congress expressed particular disdain for executive action that, in effect, creates a wilderness area by executive action, and in ANILCA § 101(d) Congress expressed that the conservation system units created by ANILCA provided “sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska” such that “the need for future legislation designating new conservation system units . . . has been obviated thereby.”

Congress concluded there was no need for further wilderness designations. According to Congress, the default rule – in the absence of further Congressional action –



should be “no more wilderness.” This makes the USFS’s continuing proposed treatment of the WSA as a wilderness inexplicable.

The USFS’s recommendation regarding the WSA was due in 1983, and was made in 1984. The USFS has fulfilled the mandate of ANILCA § 704. It is up to Congress to act on the recommendation. It has not done so for more than 30 years. It now is time for the USFS to get on with its management of the WSA. Under ANILCA the USFS has no mandate or authority to continue to treat the WSA as a wilderness.

CAC urges the USFS to terminate the WSA. The USFS then should proceed to evaluate how the former WSA should be managed in light of the USFS’s organic act, which provided for making timber, minerals and other resources available to the public, and the National Forest Management Act of 1976, which requires the Plan to “provide for multiple use and sustained yield of the products and services obtained [from the NFS] in accordance with the Multiple-Use Sustained-Yield Act of 1960, and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness.” 16 U.S.C. § 1604(e)(1). The Plan does not do this.



### Specific Comments

The following comments by Chugach Alaska Corporation address specific provisions of the Plan. CAC's general comments, provided separately, should result in additional changes to specific provisions of the Plan that may or may not be reflected below. The comments are organized following the structure of the Plan.

No.	Topic	Page	Reference	Comment
1	Laws unique to Alaska national forest management	3		<p>CAC is disappointed to discover that, despite acknowledgement and discussion in the USFS's November 2014 Assessment of Ecological and Socio-Economic Conditions and Trends, ANILCA access was completely ignored. This is a concern of paramount importance to CAC. USFS policies regarding inholder access should be addressed specifically and with clarity, especially as the CNF promulgates a planning document with a 10 to 15 year lifespan. Access rights under ANILCA were key to the bargaining process that led to passage of ANILCA. CAC expects these rights to be acknowledged and respected.</p> <p>Add references to:</p> <ul style="list-style-type: none"> <li>• CAC access rights under ANILCA §§ 1110(b) and 1323(b), and contract and common law</li> <li>• CNI Settlement Agreement</li> </ul> <p>In the first paragraph, delete the last sentence or delete "as appropriate" from the last sentence. The regulations under ANCSA and ANILCA apply to all USFS actions, but should not be part of the plan. Or, they should be incorporated without any question as to whether they are "appropriate."</p> <p>Expressly state that private inholders, including subsurface owners, will be provided with rights of access for economic or other purposes.</p> <p>See general comment 8.</p>



No.	Topic	Page	Reference	Comment
2	Other plan content, special areas	5		<p>Add that the plan contains the following special areas:</p> <ul style="list-style-type: none"> <li>• Inventoried roadless area</li> <li>• Iditarod National Historic Trail</li> <li>• National recreation trails</li> <li>• Scenic byways</li> <li>• Kenai Mountain-Turnagain Arm National Heritage Area</li> <li>• Key coastal wetlands</li> </ul>
3	Project consistency with the Plan	5		<p>2<sup>nd</sup> paragraph: must recognize CAC's access rights. See general comment 8.</p>
4	Social and economic characteristics	12		<p>Delete "stunning." It is gratuitous.</p> <p>As described in this section and illustrated in the last paragraph, the CNF job and income opportunities have little relationship to the communities in the Chugach region (Chenega Bay, Tatitlek and Cordova). Commercial fishing is available to these communities, but tourism, selling forest products and campgrounds are economic possibilities rarely available to these communities. The recreational opportunities described in the section also are inapplicable.</p>
5	Management challenges, social and cultural systems	13		<p>Increasing access points to the CNF would reduce the conflicts among users and degradation to the CNF now experienced when users are concentrated on a few access points. For example, USFS support of construction of a road to Trinity Point would reduce issues in Passage Canal. Promoting construction of a road to Shepard Point would reduce issues in Orca Inlet.</p> <p>Delete 2<sup>nd</sup> paragraph, 2<sup>nd</sup> sentence. See general comment 10.</p> <p>The economic needs and options for the communities in the Chugach region, and the opportunity for the CNF to promote economic viability of those communities, should be identified as a challenge that should be addressed by the Plan.</p>



No.	Topic	Page	Reference	Comment
				Use of adjacent private and state land, and access over and use of CNF in connection with developing private land, should be identified as a management challenge. See general comment 8.
6	Forestwide management direction, goals and desired conditions	17		The preamble states that the forest is to have a “management philosophy that includes working with . . . Alaska Native Corporations.” CAC looks forward to working in concert with the CNF in this next generation of forest planning. The Plan’s goals are compatible with our own, our shareholders, and the communities in the Chugach region, even though some of the desired conditions, objectives, standards and guidelines are not.
<b>Goal 2, desired conditions</b>				
7	Areas of tribal importance	20	FW-G2-DC-01	The first bullet should refer to Alaska <u>Native</u> Corporations.
8	Cultural resources	20	FW-G2-DC-02	<p>All of the described conditions should be qualified by the need to consult and collaborate with CAC and, if appropriate, the local tribe respecting Chugach Native cultural, historical and archeological sites and values.</p> <p>Opportunities for interpretation and enjoyment need to be tempered with not generally disclosing or publicizing cultural, historical and archeological sites that could lead to vandalism and theft.</p>
9	Jobs and economic well-being	20	FW-G2-DC-03	<p>This desired condition should be the highest priority among the various desired conditions. The USFS should initiate projects near Chugach region communities (Chenega Bay, Tatitlek and Cordova) that would provide economic stimulus. Public lands near these communities should be managed to assist and support these communities, which may include supporting private or public development and economic activity centered on these communities.</p> <p>CAC agrees with this desired condition, but the Plan does nothing to achieve this desired condition. Among other things, the desired condition refers to the need for “minerals and energy generation; forest products” to be available to communities to contribute to the local economy through the generation of jobs and income.</p>

No.	Topic	Page	Reference	Comment
				<p>Economic opportunities in the Chugach region are limited. This is especially true for Alaska Natives. The USFS is the major landowner in the Chugach region and thus its influence on economic opportunities dwarfs that of any other person, including CAC.</p> <p>The Plan's treatment of this very important forestwide desired condition is cursory, especially as it relates to the forestry and mineral industries. These industries present real opportunities for direct participation by CAC, its shareholders, and other residents of the region and are consistent with the longstanding goals of multiple use and sustained yield in the NFS. But, by virtue of the Roadless Rule in the IRA special area and the restrictions imposed in most of the management areas, as provided by the Plan, it will be virtually impossible to engage in commercial forest or mineral activities within the Chugach region on USFS land. It is inscrutable that commercial timber and mineral activities, which have historically taken place in the CNF and throughout the NFS, are completely absent from the Plan. CAC hopes to engage in these activities on its land, but greater opportunities likely are present on USFS land.</p> <p>CAC requests that the USFS consider giving more weight to these important economic goals by developing and including in the Plan objectives, standards and guidelines to achieve this desired condition. If it cannot or does not do so, then the Plan should acknowledge that it cannot achieve this desired condition or recognize that the desired condition is subordinate to all other desired conditions.</p>
10	Land ownership	20-21	FW-G2-DC-04	<p>CAC requests that this desired condition be deleted. Land acquisition should not be a desired condition. See general comment 10.</p> <p>If the USFS nevertheless includes this desired condition in the Plan, then –</p> <p>The Plan should acknowledge CAC's rights to access its land across and through CNF land. See general comment 8.</p>

No.	Topic	Page	Reference	Comment
				<p>The Plan should recognize the opportunity for cooperative management of split estate or adjacent land.</p> <p>4<sup>th</sup> bullet: add “sale and insert “voluntary” regarding purchase, donation or exchange.</p> <p>5<sup>th</sup> bullet and 8<sup>th</sup> bullet: add “through voluntary sale, purchase, donation or exchange.”</p> <p>8<sup>th</sup> bullet: should apply only if currently reserved easements are inadequate.</p> <p>8<sup>th</sup> bullet should recognize the opportunity for cooperative road construction when the road accesses both CNF and private land.</p> <p>In addition to realizing opportunities to unify the split estate, of which CAC is the predominant owner, through purchase CAC would like to see the Plan acknowledge that the USFS can adjust land ownership through <i>sale</i> as well as exchange. Disposal of lands in one area and acquisitions in another, possibly with different parties or entities, can be an efficient method of supporting resource objectives and land management. Any land acquisitions undertaken or contemplated by the Plan must be voluntary. If CAC declines to agree to a requested sale or exchange, this should have no effect on its access and use rights of CNF land.</p>
11	Facilities and infrastructure	22-23	FW-G2-DC-13	Infrastructure should include infrastructure needed to develop and stimulate local economies of Chugach region communities.
12	Roads and trails	23	FW-G2-DC-14	<p>In the second paragraph, roads should be responsive to public needs and desires, including needs and desires of local communities within the CNF.</p> <p>Delete the first sentence of the fourth paragraph. See general comment 10. If the USFS nevertheless includes this sentence in the Plan, then –</p> <p>Reword the fourth paragraph to provide for rights-of -way and easements to provide adequate and legal access to NFS lands “and across NFS lands to private lands as</p>

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				<p>necessary to provide adequate and feasible access for economic and other purposes.” See general comment 8. What does the second sentence of the paragraph mean?</p> <p>In addition to the USFS’s desire of assuring access to its lands that might be surrounded or otherwise inaccessible as a consequence of private landownership, CAC reminds the USFS that there exist many situations in the CNF where private landowners face the same access issues. It is in the best interest of the USFS, as well as the communities and owners within the Chugach region, that adequate access rights exist for everyone. Rightful access assures harmony in the community as well as the certainty necessary to proceed with a vested and clear goal upon which both the USFS and the external stakeholders and community members can rely.</p>
13	Minerals	23	FW-G2-DC-16	<p>Mineral development of subsurface estate not owned by the United States (<i>e.g.</i>, owed by CAC) should be managed in accordance with the Plan and legal obligations. These do not, and cannot, require that adverse impacts be “minimized.” For example, Environmental Protection Agency, Corps of Engineers and Alaska Department of Environmental Conservation regulations establish standards for permissible impacts on groundwater and may allow there to be <i>some</i> impact. Where CAC holds valuable subsurface resources their exploitation, where economically prudent and consistent with generally applicable legal requirements, cannot be obstructed by USFS management. See general comment 8.</p>
14	Timber	23	FW-G2-DC-17	<p>This desired condition seems inconsistent with the IRA special area, which generally forbids timber harvest within the CNF. According to the USFS’s November 2014 Assessment of Ecological Socio-Economic Conditions and Trends for the CNF, there are only 3,260 acres of tentatively suitable timberland in the CNF. Almost all of this is located in the Copper River delta. The assessment describes harvesting for fuelwood, primarily for personal consumer use. This is insufficient acreage or timber volume to sustain a commercial timber sale and harvest.</p> <p>The effect of the IRA special area and the Roadless Rule needs to be reconciled with this desired condition.</p>

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				There are many areas on the CNF that contain timber suitable for commercial harvest. CAC requests that this desired condition be revised so as to take into account areas that may not conform to allowable sale quantities on their own, but when taken in concert with adjoining or nearby private land could result in a timber harvest that achieves economic prudence. For instance, in the Carbon Mountain area, there is salable timber on both the CNF and CAC land. When each tract is evaluated individually, timber harvest is not feasible, but when aggregated to achieve an economy of scale a successful harvest may be possible. This would result in revenue for the USFS as well as for CAC and economic impacts that would be significant to local communities. CAC suggests that the desired condition permit timber to be sold and harvested in concert with road construction and timber harvest on adjacent private land.
15	Special uses	24	FW-G2-DC-19	This desired condition must recognize CAC's access rights. See general comment 8. CAC suggests that this desired condition authorize special uses of the CNF for use in connection with exploitation of underlying subsurface estate or adjacent surface acreage owned by CAC. Such special uses may not achieve, or be required to achieve, the desired conditions stated in the Plan.
16	Special area, inventoried roadless areas	24	FW-G2-DC-21	<p>This incorporates the Roadless Rule. This desired condition is inconsistent with FW-G2-DC-14, which contemplates road construction. It also is inconsistent with Map 7, which categorically approves road construction in certain areas. The special area is much broader than the WSA; it includes the backcountry and EVOS management areas too. As discussed in general comment 9, the standards and guidelines for the various management areas should include elements related to this desired condition.</p> <p>Although expressed as a desired condition, this paragraph is worded more as a standard.</p> <p>The desired condition should recognize that under the Roadless Rule there are a number of exceptions where road construction is allowed, including road construction by CAC in connection with accessing and developing its land, including its subsurface estate.</p>

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				The Roadless Rule is prescriptive, not aspirational. Therefore, this desired condition would be more accurately stated as “The undeveloped character of inventoried roadless areas is maintained to the extent required by the 2001 Roadless Area Conservation Rule.” As worded, the desired condition establishes a bias to restrict road construction unless otherwise required by the Roadless Rule. That is incorrect, and inappropriate for the special area. See general comment 9.
<b>Objectives</b>				
17		26		There should be one or more objectives leading to promoting economically sustainable communities within the CNF. Goal 2 is to contribute to social and economic sustainability. None of these objectives address social or economic sustainability of Chenega Bay, Tatitlek or Cordova. This should be a high priority for the USFS, but is completely absent from the Plan.
18	Ecological sustainability	26	FW-OB-02	The five human activities must be activities taking place on USFS land, not on private land. See general comments 2 and 8.
19	Ecological sustainability	26	FW-OB-03	<p>It seems unnecessary to have an objective of filing an instream reservation of water. It would be more appropriate to have an objective of assessing whether an instream reservation of water is necessary to protect the CNF, and to file a reservation if the assessment shows that a reservation is necessary.</p> <p>Given that most streams are wholly on USFS land, it seems unlikely there will be a need for the USFS to file an instream water reservation on those streams. The only time the USFS is likely to want to reserve water will be when the stream is on private land, such as CAC’s land. This action may be taken to interfere with CAC’s use of its land. That would be extra-territorial action by the USFS, and an inappropriate use of the reservation. CAC requests that the sentence end after “and recreational activities.”</p>
20	Land ownership	27	FW-OB-09	CAC requests that this objective be deleted. Land acquisition should not be an objective. See general comment 10.

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				<p>If the USFS nevertheless includes this objective in the Plan, then –</p> <p>See generally our specific comments regarding FW-G2-DC-04.</p> <p>Split estate unification needs to be a collaborative, voluntary process.</p> <p>There are only a few owners of split estate, who are already known to the USFS. The acreage has been identified. The Plan should identify and prioritize the USFS’s split estate unification goals.</p> <p>Reword this to: “During the first decade of forest plan implementation, contact each owner of split estate NFS lands and, if the owner is willing, jointly identify and prioritize opportunities to unify split estate lands.” Fifty opportunities is a very aggressive, and probably unrealistic, objective. Since this requires cooperation by the private landowner, there is no need to have a quantitative objective.</p>
21	Land ownership	27	FW-OB-10	<p>CAC requests that this objective be deleted. Land acquisition should not be an objective. See general comment 10.</p> <p>If the USFS nevertheless includes this objective in the Plan, then –</p> <p>See generally our specific comments regarding FW-G2-DC-04.</p> <p>Any easement, etc. “secured” must be in a voluntary transaction. If a private owner is not willing to sell or grant a desired easement, this objective should not impact rights the private owner may otherwise have to use CNF land.</p> <p>Add an objective of assuring adequate access to private holdings over CNF land.</p>
22	Land ownership	27	FW-OB-11	<p>CAC requests that this objective be deleted. Land acquisition should not be an objective. See general comment 10.</p>



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				<p>If the USFS nevertheless includes this objective in the Plan, then –</p> <p>See generally our specific comments regarding FW-G2-DC-04.</p> <p>Any adjustment must be voluntary. Adjustments also should be obtainable through “sale.” Similar to the comment on FW-OB-09, rather than “pursue,” this should be worded along the lines of “During the first decade of forest plan implementation, contact private landowners and, if the owner is willing, negotiate land ownership adjustments through purchase, sale, donation, exchange, or other authority . . . .”</p> <p>Four adjustments is an arbitrary, and perhaps unrealistic, objective. The USFS also should consider sales of USFS property as another means to achieve management efficiency and resources management objectives.</p>
23	Land ownership	27	FW-OB-12	<p>CAC requests that this objective be deleted. Land acquisition should not be an objective. See general comment 10.</p> <p>If the USFS nevertheless includes this objective in the Plan, then –</p> <p>See generally our specific comments regarding FW-G2-DC-04.</p> <p>Similar to the comment on FW-OB-09, rather than “pursue,” this should be worded along the lines of “During the first decade of forest plan implementation, contact private landowners and, if the owner is willing, negotiate the exchange or acquisition of at least one land ownership . . . .”</p>
24	Research, education and interpretation	28		<p>Add an objective of educating the public about the availability and location of private and state land within the CNF for use and economic development, and the potential resources that may be present on private and state land, especially near communities. Educate the public about high resource areas of the CNF that are near private and state land that may support development of the resource.</p>

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				<p>Add a correlative objective of educating the public about not trespassing and obtaining land use permits respecting private land within the CNF.</p> <p>Add an objective about educating the public about Chugach Native cultural history and practices.</p>
<b>Standards and guidelines</b>				
25	Goal 1 standards and guidelines	28		As glaciers retreat and expose virgin land, there is great opportunity for mineral exportation and land development that could have minimal environmental degradation. This opportunity should be recognized and exploited.
26	Species diversity	32	FW-G1-GL-20	Sea lions and seals can be found on a transient basis all along the coast. Some haul-out sites are used on a seasonal basis. This guideline should be modified and limited to commonly used and recognized sea lion or seal haul-out sites during the season when they are commonly used as a haul-out. If someone wishes to use CNF land during the off-season, it would have no impact on sea lions or seals. Also, the guideline should not apply to human activities that are visually and aurally screened from the haul-out.
27	Species diversity	32	FW-G1-GL-21	Use by and presence of unique species should be confirmed – not just “may” be used. Standing dead trees are a common feature in the CNF, so this should be deleted.
28	Cultural resources	33	FW-G2-GL-01	<p>Add: “The determination, and the nature of any development, access, signage and interpretation, should be decided in consultation and collaboration with Chugach Alaska Corporation and affected tribes.”</p> <p>The USFS should protect sites from damage by fire, theft and vandalism.</p>
29	Minerals	33	FW-G2-GL-02	<p>This guideline should be modified as follows: Surface disturbance . . . should be minimized <u>to the extent economically feasible and reasonable</u>.” Absolute minimization is not possible without prohibiting all mineral exploration and extraction.</p> <p>This guideline seems more relevant to goal 1 than to goal 2.</p>
30	Minerals	33	FW-G2-GL-03	This guideline will be nearly possible to adhere to in some instances ( <i>e.g.</i> , pit mining, quarrying and road building). This guideline requires meeting scenery integrity objectives within 10 years after reclamation work. The scenic integrity objectives in the CNF

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				generally are either very high or high. This allows “only ecological changes in natural landscapes and complete intactness of landscape character in cultural landscapes” (for very high) or “Human activities are not visually evident to the casual observer. Activities may only repeat attributes of form, line, color, and texture found in the existing landscape character” (for high). Reclamation activities typically do not achieve those standards. At an extreme, these standards could require filling a quarry with material to restore it to natural elevations and contours. That would be unrealistic and would make any quarry uneconomical. Deviations from this guideline likely will be necessary. Scenery integrity objectives may be a desired condition, but they cannot be a guideline.  This guideline seems more relevant to goal 1 than to goal 2.
31	Forest products	36	FW-G2-GL-03	What standards and guidelines will apply to “official permits?” This should be clarified.
32	Forest products	36	FW-G2-GL-09	This is ambiguous. CAC understands this to mean there can be 5 commercial forest products permits issued during a 5-year period in each subwatershed, as shown on Map 2. Map 2 refers to these as “HUC 6 Watershed.” The Plan should use the same terminology. What is the term of each permit? If one permit is issued to collect mushrooms and another is issued to collect ferns, this guideline would be unduly restrictive.
33	Forest products	36	FW-G2-GL-10	To promote economic sustainability, the priorities should be changed to: 1. Subsistence 2. Commercial by local residents 3. Commercial by others 4. Personal and free use 5. Noncommercial research and education
34	Fire and fuels	36	FW-G2-ST-07	Water contaminated by invasive aquatic species should be avoided for firefighting if another uncontaminated source is readily available. However, if using another uncontaminated source will delay firefighting on private, state or municipal land the contaminated water source should be used rather than “avoided.”
35	Prescribed fire	37		Add a standard that the USFS must consult with nearby private land owners and the nearest community before any prescribed fire.

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36	Prescribed fire	37	FW-G2-GL-14	There should be an exception in the case of emergency or imminent threat of fire. Also, this should not apply if the equipment, clothing or equipment is staged to fight fire in that infested area.
37	Fuels treatment	37	FW-G2-GL-15	2 <sup>nd</sup> bullet should make it clear that the clearing will not exceed the width of the easement or other right of way, unless agreed to by the landowner.
38	Special uses, non-recreation	37	FW-G2-ST-10	Some of these standards will not work for temporary camps CAC may have in connection with exploration and development of its subsurface estate. For example, it may have year-round occupancy, structures may not be readily dismantled, and unneeded materials may be stored on-site, such as in a Conex, rather than removed and returned each year. The siting restrictions may or may not be practicable. At least with respect to CAC, these should be guidelines rather than standards so that some deviation is possible. Or, they simply should not apply to CAC when the camps are in connection with CAC accessing its subsurface estate.
39	Special uses, non-recreation	37	FW-G2-ST-11	This should apply only if flying point to point within the CNF. Flying point to point between Anchorage and the CNF, or between the CNF and private land within the Chugach region, should not be covered. Flying to a point within the CNF where CAC owns the subsurface estate also should not be covered. As worded, this basically would cover only air charter companies. Why should they be treated differently than air taxis?
40	Land ownership	38	FW-G2-GL-19	<p>CAC requests that this guideline be deleted. Land acquisition should not be a guideline. See general comment 10.</p> <p>If the USFS nevertheless includes this guideline in the Plan, then –</p> <p>See generally our specific comments regarding FW-G2-DC-04.</p> <p>The introductory sentence should include exchange and sale in addition to acquisition.</p> <p>1<sup>st</sup> bullet: The entire CNF is in a management area. The Plan does not identify any “specially designated area.” Delete this bullet. It adds nothing.</p>

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				5 <sup>th</sup> bullet: the Plan has not established any problem accessing NFS lands. There are scores of easements reserved through ANCSA and the CNI Settlement Agreement assuring access to NFS land. Delete this bullet until some need is established.
41	Land ownership	38	FW-G2-GL-20	<p>CAC requests that this guideline be deleted. Land acquisition should not be an objective. See general comment 10.</p> <p>If the USFS nevertheless includes this guideline in the Plan, then –</p> <p>See generally our specific comments regarding FW-G2-DC-04.</p> <p>Land exchanges and disposals must be with <u>willing parties</u>, and also should be used for</p> <ul style="list-style-type: none"> <li>• Reducing isolated inholdings</li> <li>• Consolidating split estates</li> <li>• Providing public access to NFS lands</li> <li>• Fulfilling intent and purpose of EVOS restoration objectives</li> </ul> <p>Why are essentially identical guidelines restated in FW-G2-GL-19 and -20?</p>
42	Land Ownership	38		Add a guideline about developing and providing easements to private landowners exercising their access rights across the CNF.
43	Seward Highway	39		The Plan needs to acknowledge that CAC owns and operates a gravel pit within the Seward Highway corridor.
<b>Management Areas</b>				
44	Introduction	41		<p>In the last sentence of the first paragraph: Often it may not be clear if there is a conflict between directions, or which direction is more “stringent” or “restrictive.” The Plan should identify, or at least provide examples, of such conflicts.</p> <p>CAC suggests that in the event of conflict, the direction that should govern should be based on promoting the Plan’s goals and objectives rather than a mechanical comparison of the conflicting directions. To this end, CAC suggests that the direction that promotes the following priorities, in the following order, govern in the event of conflict:</p> <ol style="list-style-type: none"> <li>1. Economic sustainability of Chugach region communities</li> </ol>

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				<ul style="list-style-type: none"> <li>2. Rights of private landowners</li> <li>3. Regional needs</li> <li>4. Environmental protection</li> </ul>
45	Suitability of areas	42	Table 6	<p>Saleable minerals are noted as “N/A” in MA6 (EVOS lands). “Saleable minerals” are sand and gravel. But sand and gravel are owned by CAC in this management area. “N/A” is not explained in the table or narrative, but should be. It does <u>not</u> mean sand and gravel operation by CAC is unsuitable.</p> <p>Timber production is shown as “unsuitable” in all management areas. That is not correct. It may be suitable in several areas, but is prohibited by the Roadless Rule. The Roadless Rule permits timber production in certain circumstances. The table should identify the management areas where timber production is suitable, but restricted by the Roadless Rule. The management intent for MA8, page 57, notes that the frontcountry management area includes most of the acreage identified as tentatively <u>suitable</u> for timber production. FW-G2-DC-17 recognizes timber production as a desired condition. Suitability and restriction under the Roadless rule are separate matters. If the Roadless Rule was revoked tomorrow, what would be the suitability of timber production and how would it be managed?</p> <p>Mining is not even listed in table 6. It should be, and its suitability should be indicated. FW-G2-DC-16 recognizes development of mineral resources as a desired condition. It is inexplicable that mining is not included in table 6.</p>
<b>MA1 – wilderness study area</b>				
46	Management intent and desired conditions	44		The Plan needs to acknowledge CAC access rights. See general comment 8.
47	Administrative activities and facilities	44	MA1-GL-01	Delete “special use.” That is covered under Special Uses (pages 44-45). This guideline is supposed to focus on administrative activities and facilities.

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48	Special uses (non-recreation)	44	MA1-GL-02	A floating facility may have less adverse impact ( <i>e.g.</i> , environmental, visual, wildlife, soil, water) than a shore-based facility. Therefore, the Plan should not categorically prohibit floating facilities. This is particularly true on split estate land where CAC has a right to access the subsurface estate. A floating facility may be the most economical and benign means of exploring or developing the subsurface estate.
<b>MA4 – backcountry</b>				
49	Management intent and desired conditions	50		<p>The Plan needs to acknowledge CAC access rights. See general comment 8.</p> <p>Backcountry and EVOS management areas are adjacent in numerous places. In addition, non-EVOS CAC holdings are often adjacent to backcountry management areas. Both the backcountry and EVOS management areas should take this into account.</p> <p>Special use prohibitions on commercial use should be allowed so that complementary access to CAC assets may be afforded.</p>
50	Special uses (non-recreation)	50	MA4-ST-04	<p>A floating facility may have less adverse impacts than a shore-based facility and should not be categorically prohibited, especially relating to split estate land. See comment to MA1-GL-02.</p> <p>Note, this is a standard. The prohibition on floating facilities in the WSA management area was a guideline. Why is there a difference?</p>
<b>MA5 ANILCA 501(b) area</b>				
51	Management intent and desired conditions	51		<p>The Plan needs to acknowledge CAC access rights. See general comment 8.</p> <p>Note that the existing Copper River highway could be specifically improved to grant access. Road access to this area could also be helpful for furthering the goals of ANILCA 501(b).</p> <p>The management area has large inholdings. Besides generally recognizing access rights, it would be appropriate for the USFS to develop, in collaboration with the inholders (CAC and Eyak Corporation, primarily) access easements and corridors. These should be</p>





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				reflected in the desired conditions and guidelines.
52	Watershed, fisheries, wildlife and vegetation	51	MA5-GL-02	CAC can use motorized equipment in connection with CAC access to its land over CNF land. The guideline should recognize this exception.
53	Minerals	51	MA5-GL-04	Not applicable to mineral activities ( <i>e.g.</i> , road construction) on CNF land or to access CAC land for mineral activities.
54	Minerals	51	MA5-GL-05	Road construction can (must) be authorized for initial prospecting and exploration on CAC land.
55	Scenery	52	MA5-GL-14	Nonconformance with mapped scenic integrity objective may exceed 5 acres for facilities reasonably needed in connection with access to and use and enjoyment of CAC land.
56	Special uses (non-recreation)	52	MA5-ST-01	<p>A floating facility may have less adverse impacts than a shore-based facility and should not be categorically prohibited, especially relating to split estate land. See comment to MA1-GL-02.</p> <p>Note, this is a standard. The prohibition on floating facilities in the WSA management area was a guideline. Why is there a difference?</p>
<b>MA6 EVOS acquired lands</b>				
57	Management intent and desired conditions	53		<p>The Plan needs to acknowledge CAC access rights. See general comment 8.</p> <p>CAC welcomes the statement of CAC's subsurface estate ownership and access rights, but is puzzled by the brevity of this statement compared to the extensive descriptions of the USFS's surface rights.</p> <p>1<sup>st</sup> paragraph: CAC is entitled to access for exploration, development, <u>mining (or operation)</u> and <u>reclamation</u> of subsurface resources. In mining vernacular, "exploration and development" does not include all phases of mining activities. Also, CAC may use the subsurface estate for other purposes. What those purposes are, and whether CAC wishes to use its subsurface estate for those purposes, will be addressed in the future. The Plan should not limit CAC to mining activity regarding the subsurface estate.</p>

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				2 <sup>nd</sup> paragraph: The paragraph refers to “specific covenants that apply to the specific protected property” as well as “detailed management requirements.” The Plan should describe in some detail these covenants and management requirements and identify the lands covered by them. With that information, it may become apparent that portions of the Plan are unnecessary or are inconsistent with these other legal requirements.
58	Desired condition	53	MA6-DC-01	What does “devaluation and loss” mean? In the context of the Plan, these words have no apparent meaning. How is this desired condition unique to the EVOS management area? This provision is vague and should be removed.
59	Desired condition	53	MA6-DC-04	CAC requests that this desired condition be deleted. Land acquisition should not be an objective. See general comment 10.  If the USFS nevertheless includes this desired condition in the Plan, then –  The USFS should be able to exchange or acquire interests for reasons other than just EVOS restoration objectives.
60	Various	54-55	All standards and guidelines	CAC generally objects to the directives in the EVOS management area. CAC’s rights burdening EVOS lands pre-existed the oil spill and any transfer of the EVOS management area lands to the USFS. These lands were intended to be used by Alaska Natives for purposes of self-determination. While CAC intends to be a good neighbor to the CNF with regard to how it uses its resources, CAC has rights to its subsurface estate that the USFS cannot regulate or diminish. The Plan’s standards and guidelines have no controlling legal authority over CAC respecting its subsurface estate. Instead of seeking collaboration with split estate owners, the standards and guidelines appear to try to impose restrictions. CAC cannot agree to this approach or result.  All (not just some) of the standards and guidelines need to except CAC access to the subsurface estate. Compare, for example, MA6-ST-06 and -08.  As noted above, the exception must be for exploration, development, mining (or operation) and reclamation of the subsurface estate, and not just exploration and

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				<p>development or just development. Compare, for example, MA6-ST-04 (exploration and development) and -06 (development).</p> <p>The exceptions “unless needed to reasonably develop the subsurface” must be reworded. See, for example, MA6-ST-06. <i>Whether</i> to develop the subsurface estate and the general method to develop the subsurface estate is wholly within CAC’s judgment and discretion. They are not subject to USFS challenge as to whether development or the overall method is “reasonable.” However, CAC acknowledges that the activity should be reasonably connected to that development. So, the exception can be reworded to read “unless reasonably needed to explore, develop, mine (or operate) or reclaim the subsurface.”</p> <p>As to development of the subsurface estate, CAC requests that this be worded as a positive statement rather than as an exception to a negative statement. For example, MA6-ST-06 could state: “The construction of new roads, as well as facilities associated with roads, such as boat docks, log transfer facilities, and parking lots, shall not be authorized. However, the construction of new roads, as well as facilities associated with roads, such as boat docks, log transfer facilities, and parking lots, shall be authorized if reasonably needed to explore, develop, mine (or operate) or reclaim the subsurface estate.”</p>
61	Special uses (non-recreation)	55	MA6-ST-11	This is completely inconsistent with CAC’s access rights. This guideline should be deleted or, as stated in the preceding comment, it should except access to the subsurface estate.
62	Special uses (non-recreation)	55	MA6-GL-05	This is completely inconsistent with CAC’s access rights. This guideline should be deleted or, as stated in the preceding comment, it should except access to the subsurface estate.
<b>Maps</b>				
63	Map 7			Delete from the legend “road construction or reconstruction is not allowed” and “road construction or reconstruction is allowed.” This is inconsistent with the Plan. The Plan does not generally address or specifically prohibit or allow road construction. This is mainly a function of the Roadless Rule, not the Plan, and is more complicated than either allowing or prohibiting road construction in certain areas. If there is a basis to distinguish



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				these areas under the Roadless Rule, that basis should be described and addressed in the Plan.  Roads may be constructed in the Bering River ANILCA 501(b) management area (MA5-GL-05) but this area is shown in yellow (no road construction).
64	Map 4 or 7			Map 4 or 7 should show the access corridors tentatively identified by CAC.