

March 30, 2021

Cordova Ranger District
Attn: "Cordova Guided Heli-Ski Project"
P.O. Box 280, 612 Second Street
Cordova, AK 99574
Fax: (907) 424-7214
cnfheli@usda.gov

Required information

Name: The Tatitlek Corporation / Roy Totemoff (CEO)
Address: 561 E. 36th Ave., Anchorage, AK 99503
Proposed Project Title: Cordova Guided Heli-Ski Project ("Proposal")
Specific Written Comments below

The Tatitlek Corporation provides these comments regarding the above-reference Proposal, and appreciates the opportunity to do so. As the owner of approximately 8,650 acres of land adjacent to the proposed area for special use permits, comprising almost the entire valley floor of the Tasnuna River Valley and parts of Copper River Valley, Tatitlek has concerns that the Proposal does not address. Because of these concerns, Tatitlek is opposed to the Proposal.

Lack of Meaningful Consultation

Federal agencies are obligated to consult with Native Americans and Alaska Natives in the course of making decisions that will affect those groups' interests. The Forest Service has adopted specific guidance for this process in its handbook (FSH 1509.13, as amended by Amendment No. 1509.13-2016-1).

There has been very little outreach from the Forest Service regarding the Proposal—a copy of the Proposal was not sent directly to Tatitlek. Instead, Tatitlek received a copy by way of another Alaska Native Corporation, even though Tatitlek owns between one third and one half of the flat lands adjoining the areas indicated in the Proposal. As further scoping and consideration takes place on this project, Tatitlek hopes that the Forest Service will increase its efforts to consult with Tatitlek and other Alaska Native groups with a stake in the area, as outlined in the Forest Service's own internal handbook. To this end, we are open to a consultation for this proposal should the Forest Service wish to discuss it further.

Trespassing Concerns

Ski runs normally terminate at the bottom of the vertical terrain they are meant to service. Tatitlek owns almost the entire valley floor of the Tasnuna Valley and part of the Copper River Valley, which is at the end of the run for areas 1, 2, 3, 5, and 8 identified in the Proposal. If the skiers end their runs when the terrain levels off in those areas, then they will almost certainly stop on private lands owned by Tatitlek. The helicopter service will certainly prefer using this same level terrain for landing and picking up the skiers. Tatitlek does not consent to the use of its lands in support of the Proposal.

The area is attractive to heli-skiing in part because it is so remote, but that also creates a problem for Tatitlek's ability to monitor and enforce its property rights there. The Proposal does not address the increase in trespassing the issuance of special use permits will create as skiers use as much of the vertical terrain as possible, ending their run on Tatitlek land. Then helicopters have to pick up the skiers, further trespassing on Tatitlek land. The proposal does not address how to prevent this, or what consequences would attend if it is not prevented. If the Proposal is implemented in its current state, then Tatitlek may be forced to incur substantial costs in monitoring the area and enforcing its property rights. This is not acceptable.

Search and rescue efforts in the event of an accident could also affect Tatitlek's lands. As demonstrated recently when another heli-skiing operation experienced disaster, even knowledgeable operators with good equipment and excellent, lengthy track records are not immune from disastrous crashes (<https://www.adn.com/alaska-news/2021/03/29/ntsb-helicopter-crash-that-killed-5-occurred-near-the-top-of-a-high-ridge-above-the-knik-glacier/>).

Finally, the likely increase in avalanche activity could affect Tatitlek lands. When (not if) the skiers and helicopters trigger avalanches that flow down onto Tatitlek lands, that is also trespassing and can cause damage to Tatitlek lands and waterways on those lands. The Forest Service's failure to raise the trespassing issue in its internal scoping is deeply concerning to Tatitlek.

Environmental Concerns

Tatitlek would also have great difficulty tracking environmental effects to its lands in the case of a spill that ran downhill and onto Tatitlek property.

The Proposal states in its Permit Stipulations section that permit holders would be required to "conduct their operations in such a way that avoids damaging or contaminating the environment, including soil, vegetation, surface water and groundwater." However, the likelihood of any damaging or contaminating event is not addressed. Neither is the potential for impact on adjacent lands.

While still at the initial external scoping stage, the Proposal does not adequately flag environmental issues for consideration. The internal scoping identified only the potential impact on mountain goats and conflicts between permit holders, but does not address the impact on the Human Environment as interpreted in the National Environmental Policy Act's (NEPA) implementing regulations. 40 CFR 1508.14 ("comprehensively to include the natural and physical environment and the relationship of people with that environment.").

Especially troubling is the fact that the Proposal also includes in its title "Environmental Assessment," indicating that the Proposal may be meant to serve as the Forest Service's effort to comply with NEPA. A much more thorough effort is required that explicitly addresses alternative actions. See, for example, a recent environmental assessment by the BLM in regards to a heli-skiing permit:

https://eplanning.blm.gov/public_projects/nepa/67342/105809/129388/FinalEA_Silverton_Heli_Ski_Terrain_Environmental_Assessment_May2017.pdf

While Tatitlek recognizes that NEPA does not apply every time the Forest Service authorizes a use of federal lands, it does apply in this case. According to the Forest Service's Handbook (1909.15, "Code Zero"), a Forest Service proposal is subject to NEPA requirements when four factors are satisfied:

(1)The Forest Service has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated (see 40 CFR 1508.23); (36 CFR 220.4(a))

(2)The proposed action is subject to Forest Service control and responsibility (see 40 CFR 1508.18); (36 CFR 220.4(a))

(3)The proposed action would cause effects on the natural and physical environment and the relationship of people with that environment (40 CFR 1508.14) that can be meaningfully evaluated (40 CFR 1508.23); and (36 CFR 220.4(a))

(4) The proposed action is not statutorily exempt from the requirements of section 102(2)(C) of the NEPA (42 USC 4332(2)(C)). (36 CFR 220.4(a))

These four factors are all satisfied for the Proposal. First, the proposal meets the definition found at 40 CFR 1508.23 ("A proposal may exist in fact as well as by agency declaration that one exists."); Second, the Forest Service has control and responsibility here; Third, more heli-skiing in the proposed area would affect the area, and people's relationship to it; Fourth, no exemption exists removing the application of NEPA.

More specifically as to the third factor, the use of remote caches of fuel and supplies raises concerns. Anytime more motorized equipment is authorized to enter an area we must consider the potential effects this will have on the natural and physical environment. Even when carefully managed, fuel spills by heli-skiing operations do happen. For example, in 2018 one such large, well-established operation spilled about 1,500 gallons of jet fuel. (<https://www.nelsonstar.com/news/fuel-spill-at-heli-ski-lodge-north-of-nakusp/>).

Most, if not all, of the land proposed for use in the Proposal would naturally lead to ski runs terminating at or near bodies of water, such as the Tasnuna River, Copper River, and Nelson Bay, all of which connect with Prince William Sound. The area is globally famous for its world-class fishing and environmental splendor. It is perhaps equally famous for its history of oil and fuel spills. While extreme caution must be practiced in all areas to avoid the effects of spilled oil and fuel, those effects are well known in and around Prince William Sound. Tatitlek is deeply concerned that this issue was not raised in the course of the Forest Service's internal scoping. If remote refueling caches spill—and they do from time to time—then these waterways could be disastrously affected. An environmental assessment could not be considered complete if it did not take this possibility, and the requirements of the Clean Water Act, into account.

Conclusion

Thank you for the opportunity to comment. Please add these issues to those the Forest Service will consider in the course of the permitting process. In summary:

- Meaningful consultation with Alaska Natives throughout the process of scoping and considering the Proposal and the actions it contemplates;
- Trespassing concerns, especially the difficulty in monitoring / policing the trespasses that are bound to happen; and
- Environmental concerns, especially regarding remote refueling, with NEPA compliant consideration of alternative actions

Because of these concerns, Tatitlek is currently opposed to the Forest Service's proposal. Please reconsider taking the proposed actions.

Respectfully,



Roy Totemoff
CEO