



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

OFFICE OF PROJECT MANAGEMENT AND PERMITTING

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David Schmid
Regional Forester
USDA Forest Service
8510 Mendenhall Loop Road
Juneau, AK 99801
Submitted electronically: <https://cara.ecosystem-management.org/Public//CommentInput?Project=60550>

Tom Heinlein
Acting State Director
BLM Alaska State Office
222 West Seventh Avenue, No. 13
Anchorage, AK 99513-7504

Re: Mendenhall Glacier Recreation Area Mineral Exploration Withdrawal

Dear Mr. Schmid and Mr. Heinlein,

Thank you for the opportunity to provide comments on the Forest Service proposal for mineral withdrawals on National Forest lands at Mendenhall Glacier Recreation Area. This proposed withdrawal of mineral resources on 4,560 acres of federally managed lands adjacent to an existing mineral withdrawal (Public Land Order 829) is requested for a 20-year term. Based on a letter from the Forest Service to interested parties (File Code 2760, August 4, 2021), the intent of the proposed withdrawal is to protect the unique landscape from adverse effects of mining activities based on a need to continue to provide a predominately natural setting for semi-primitive types of recreation and tourism, protect recreational and natural resources, scenic integrity, existing infrastructure, and planned future facility development of the Mendenhall Glacier Recreation Area.

The Office of Project Management and Permitting (OPMP) has coordinated with the following state agencies to review the withdrawal proposal in relation to State of Alaska (State) authorities and expertise: Alaska Departments of Natural Resources (DNR), Environmental Conservation (ADEC), Fish and Game (ADF&G), and Law. This letter constitutes the State's consolidated comments for your consideration.

ANILCA withdrawal constraints

Section 1326(a) of the Alaska National Interest Lands Conservation Act (ANILCA) is clear that withdrawals exceeding 5,000 acres **in the aggregate** require notice in the Federal Register and to both Houses of Congress.^[1] As noted, the approval of the proposed expansion of the existing

^[1] "No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska

withdrawal will result in an area exceeding this 5,000-acre limit. This is also likely to be an on-going need as the glacier continues to recede, leaving no doubt that the intent of the withdrawal is to exceed 5,000 acres in the aggregate. This withdrawal and future withdrawals must be considered cumulatively, in accordance with ANILCA Section 1326(a). If approved, the withdrawal expansion must be submitted to both Houses of Congress for it to become effective. The withdrawal will terminate within one year unless Congress passes a joint resolution of approval for the action. The Federal Land Policy and Management Act (FLPMA) Section 202(e)(2) also requires the Bureau of Land Management (BLM) to report any management decision or action that excludes one or more of the principal or major uses for two or more years on one hundred thousand acres to Congress, which terminates, if not adopted. The U.S. Forest Service (Forest Service) and BLM need to address the impact these requirements will have on this action and future planning efforts in the area.

For this proposed action, a focused purpose and need statement regarding the intended recreational and scenic use of the area should be clearly articulated in the Environmental Assessment (EA). The Forest Service and BLM should not apply, as a general policy, the withdrawal of federal lands due to glacial retreat, as these emerging areas are important for multiple uses. A broad purpose and need statement in the EA related to protecting exposed resources due to a receding glacier could be applied to any glacier in Alaska. The EA should specify the rationale for this proposed mineral withdrawal, so the public does not misinterpret that the proposed mineral withdrawal is a general policy to be applied where glaciers are receding.

State assertion over navigable waters

The State asserts the entirety of Mendenhall Lake, including all recently exposed waters and shorelands due to glacial retreat, and the Mendenhall River to be state owned navigable waterways. These lands and waters are managed consistent with existing state statutes and regulations applicable to all state lands. All maps and descriptions in the EA should identify these state-owned lands and waters. This withdrawal does not apply to state navigable waters, which should be specifically excluded from the proposed withdrawal expansion.

Timely processing of withdrawals

This proposed withdrawal should not be processed prior to other withdrawals already waiting to be revoked as a high priority to allow the State to finalize its selections and receive its full land entitlement. Numerous Resource Management Plans (RMP) have analyzed and recommended revoking prior Public Land Orders (PLOs) and these have not been processed in a timely manner. For example, the 2008 Kobuk Seward RMP Record of Decision recommended revoking PLOs 5169, 5170, 5171, 5179, 5180, 5184, 5186, 5187, 5188, and 5353, and over 12 years later these withdrawals have not been lifted. Further, the state has prioritized PLO 5150 as its highest priority for BLM to repeal but has not been notified of any action on that PLO. With limited staff available to process/ revoke withdrawals, the State requests that BLM prioritize processing high priority requests from the state and older withdrawals that have been recommended for

exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.”

revocation in previously completed Resource Management Plans before devoting staff time to new requests.

Additionally, the State suggests the Forest Service and BLM develop a comprehensive long-range plan to address the need for a withdrawal, consistent with ANILCA and other applicable laws, rather than a twenty-year withdrawal period with the option for a twenty-year extension, as proposed. A comprehensive long-range plan addressing this issue would be prudent considering the need for this withdrawal will remain in twenty years when this proposed withdrawal would expire.

National Historic Preservation Act

The State Historic Preservation Office notes the proposed withdrawal is an administrative action rather than an undertaking under Section 106 of the National Historic Preservation Act, and thus has no additional comments.

Fish and wildlife

Currently on the Tongass National Forest, the Mendenhall Glacier Recreation Area (excepting the Mendenhall Lake and Juneau Road System closed areas) is open to hunting and closed to trapping by the Alaska Board of Game. If glacial changes occurred to allow better access to the proposed withdrawal area, interest in opportunities for trapping may occur in the area. The current Master Plan for the area does not address this potential interest. The State requests potential impacts of the withdrawal on hunting and trapping interests in the area be evaluated and disclosed in the EA, as well as future planning efforts.

The State requests the Forest Service and BLM cooperatively work with ADF&G management staff to address fish and wildlife related issues, including potential trapping opportunities in the expansion area, within the context of all uses. The EA should discuss planning in the area holistically, over time, as the glacier is likely to continue to recede.

Conclusion

Thank you for the opportunity to review the proposal and submit comments regarding this mineral exploration withdrawal. Please contact me if you have any questions.

Sincerely,



Catherine Heroy
Large Project Coordinator

Ecc: State Review Team
Kyle Moselle, Executive Director, DNR Office of Project Management and Permitting
Chelsea Kreiner, Realty Specialist, BLM