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First name: Catherine  
Last name: Heroy  
Organization: State Of Alaska  
Title: Federal Program Manager  
Comments: Please see the attached State comment letter.

Department of Natural Resources

OFFICE OF PROJECT MANAGEMENT AND PERMITTING

th  
550 West 7 Avenue, Suite 1430  
Anchorage, AK 99501-3561  
Main: 907.269-8690  
Fax: 907-269-5673

January 30, 2024

Peter Mali  
National Wilderness Program Manager  
1400 Independence Avenue SW  
Washington, DC 20250-1124.

Submitted electronically and via email to SM.FS.ClimbDir@usda.gov

Re: Forest Service Manual 2300-Recreation, Wilderness, and Related Resource Management, Chapter 2350-Trail, River, and Similar Recreation Opportunities, Section 2355-Climbing Opportunities

Dear Mr. Mali,

The State of Alaska (State) reviewed the Forest Service (USFS or Service) proposed directives related to climbing management on National Forest System (NFS) lands. The proposed directives would add a new section (2355 - Climbing Opportunities) to Forest Service Manual (FSM) 2300 - Recreation, Wilderness, and Related Resource Management, Chapter 2350 - Trail, River, and Similar Recreation Opportunities.

The State supports public access to public lands, and the continuation of traditional activities such as climbing. The State resource agencies, including the Departments of Natural Resources (DNR) and Fish and Game (ADF&G), offer the following comments.

We request the final directive specify that the placement, use, and maintenance of new and existing fixed anchors be allowed on USFS lands, including designated wilderness, unless significant impacts to natural or cultural resources are documented. This decision would align with the multiple-use mandate Congress has assigned the USFS in the Multiple Use and Sustained Yield Act of 1960 which states "...[n]ational forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes." We have concerns when legitimate traditional uses of wilderness are reinterpreted as prohibited activities. Climbers have traditionally enjoyed primitive recreational use of wilderness areas, and there are many other historic and legitimate user groups that enjoy wilderness, including hunters, anglers, and trappers that

would be impacted by increasing restrictions on recreational activities and access.

#### Congressional Intent

This directive FS 2350 (directive) addresses the management of climbing activities in wilderness areas and non-wilderness areas in the National Forest System. The impetus for creating this Directive 2355 derives from Congressional direction in the 2021 appropriations bill to issue "general guidance on rock climbing management on [FS] lands, including the application of the [Act] for rock climbing and appropriate use of equipment in wilderness areas." We recognize climbing continues to grow as a recreational sport in the United States and that this increased use can, on occasion, result in significant impacts to forest resources as well as occasional conflicts among users on USFS lands. However, the USFS has existing regulations that can be used to restrict climbing routes when necessary.

We are supportive of the intent in the draft directive Section 2355.02-"Objectives" to continue to provide climbing opportunities on USFS lands, and to serve visitors' needs while also protecting natural and cultural resources. Continuing to provide rock climbing opportunities is an example of the USFS meeting the multiple-use mandate Congress assigned it in the Multiple Use Sustained Yield Act of 1960 (Public Law 104-333).

Additionally, Congress, in the John D. Dingell Jr. Conservation, Management, and Recreation Act (Dingell Act), indicated in establishing new wilderness areas, that:

Nothing in this part [Sec. 1232] prohibits recreational rock-climbing activities in the wilderness areas, such as the placement, use, and maintenance of fixed anchors, including any fixed anchor established before the date of the enactment of this Act- The State agrees with the USFS in affirming climbing as "an important and historically relevant form of primitive or unconfined recreation consistent with the wilderness character of many NFS wilderness areas." and that thoughtful use of permanent anchors do not impair the future enjoyment of wilderness or violate the Wilderness Act (p. 5). However, we disagree with the assertion that fixed anchors and equipment in wilderness require a minimum requirements analysis (MRA). The use of permanent bolts and anchors for belay, rappel, or protection purposes are appurtenant to the activity of climbing. Because climbing is already established as appropriate in wilderness, activities appurtenant to climbing - especially to climbing safety - should not require an MRA. The USFS has sufficient oversight tools through the existing permitting process to protect wilderness areas not suitable for climbing with permanent installations.

The draft manual does not address the barrier of requiring an MRA process in addition to planning and permitting processes for each application to establish permanent fixtures. One major concern is that a shortage of funding and staff to support both planning and permitting as well as an MRA for each application will create delays that amount to closures or blocks to climbing in wilderness. The USFS notes that MRAs can be completed "as funding and resources allow" (p. 5) yet Section 2355.31.1 indicates the "placement and replacement of fixed anchors and fixed equipment is only allowed" if they are not prohibited in the applicable climbing plan. If funding and resources are not available to prepare climbing plans in a national forest, no climbing will be allowed there with fixed anchors or fixed equipment. Because fixed anchors for climbing are principally a matter of safety, these processes must be prioritized.

#### Alaska National Interest Lands Conservation Act (ANILCA)

The Alaska National Interest Lands Conservation Act (ANILCA) was passed by Congress in 1980 with special recognition of the importance of traditional activities in Alaska, including in Wilderness areas. Climbing is a traditional activity in Alaska national forests and wilderness areas, as it occurred prior to the passage of ANILCA in 1980, and access for traditional activities is protected by the ANILCA Section 1110. Permits for recreational climbing in wilderness areas (considered conservation system units (CSUs) when created by ANILCA) are considered a closure to a traditional activity under ANILCA Section 1110(a) and must

follow a public notice and hearing process in the vicinity of the affected wilderness. Permit requirements or other restrictions, if determined necessary for Alaska national forest wilderness areas, must be implemented in regulation after going through the closure process outlined in ANILCA Section 1110(a). The Secretary must find that the use is detrimental to the resource values of the affected wilderness. The Department of Interior has regulations addressing closures under ANILCA 1110 at 43 CFR 36.11; the USFS can look to those regulations for further information.

The provisions of ANILCA clarify Congress' intent for the unique management of CSUs in Alaska (e.g., wilderness areas in national forests). Specific uses are allowed in Alaska wilderness without a permit that are not allowed in wilderness outside of Alaska to accommodate the Alaskan lifestyle that relies on access for harvesting fish and wildlife resources and travelling across the vast landscape of Alaska CSUs, where few roads exist and where most areas of the state are accessible only by boat, snow machine, or aircraft.

Please add ANILCA to the lists of authorities in the following places:

\* 2355.01 - Authority

Alaska National Interest Lands Conservation Act (ANILCA) (16 USC 51). This act provides for certain unique management provisions on federal lands, including special access for traditional activities in conservation system units in Alaska including designated wilderness areas and wilderness study areas.

\* 2355.03 - Policy

Subsection 3(g): Alaska National Interest Lands Conservation Act (ANILCA)

\* Section 2355.38 - Compliance with Natural and Cultural Resource Laws  
Consistency with State Plans

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The Chugach State Park Management Plan allows fixed anchors in all areas of the park, including wilderness. The State is an adjoining landowner to both the Chugach and Tongass National Forests. In this case, the Chugach State Park is adjacent to the Chugach National Forest, and providing users consistency between the two areas is appropriate.

#### Authorities

In addition to adding ANILCA to the authorities in Section 2355.01 of the draft directive, as requested above, Section 2355.01 should include the following relevant statutes:

\* The John D. Dingell Jr. Conservation, Management, and Recreation Act (Dingell Act). The Dingell Act has several provisions benefiting recreation on public lands, including provisions indicating that climbing is an appropriate use in newly designated wilderness (a continuation of recognizing climbing as a historical use) and directing

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<https://dnr.alaska.gov/parks/plans/chugach/chugachmplan.htm>

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federal agencies to enhance access for hunting, fishing, and recreational shooting activities. The Dingell Act outlines provisions requiring a notice-and-comment period prior to closing federal lands to hunting, fishing, or recreational target shooting.

\* The National Forest Management Act of 1976 (16 USC 1600). The NFMA is the primary legal directive for the management of national forest lands by the USFS.

\* The Multiple Use and Sustained Yield Act of 1960 (16 USC 528). This act directs that

national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes.

\* The Federal Land Protection and Management Act (43 USC 1701-1785). This act primarily applies to the Bureau of Land Management, however, certain provisions in the act apply to the USFS. Including the mandate, the USFS must manage its public lands for multiple use and sustained yield.

#### Traditional Use of Wilderness

Climbing, including fixed anchors, is a historic use of designated wilderness. If the use of fixed anchors was considered a prohibited activity by the proponents and the Congress who signed the Wilderness Act in 1964, the USFS-asserted issue would have been captured in the legislative history and generally prohibited like the other examples of structures or installations (e.g., fire towers and breaks, buildings, fences, communication towers, and impoundments). Gear historically used by climbers is not a permanent installation. Fixed anchors are temporary in nature as they need to be regularly repaired or replaced. We request the USFS remove fixed anchors from the definition of installation, as stated in the draft manual Section 2355.32 and 2355.03\_5.

Allowing this gear, required to conduct traditional activities, is consistent with the direction in Section 2(a) of the Wilderness Act to manage wilderness areas "for the use and enjoyment of the American people" and Section 4(b) which directs that, "wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use" [emphasis added].

#### Unreasonable Restrictions

The proposed need for an MRA to replace fixed anchors seems to be a precursor to additional restrictions on traditional activities, and a step towards overly prescriptive management that would restrict or eliminate Congressionally allowed uses. The USFS has existing tools and legal authority to manage climbing when it is causing impacts to resources without adding these restrictions. For example, they can close specific routes and areas under existing authorities.

#### Negative Impact on Climbing Activities

The proposed directive undermines the long-standing tradition of climbing in Wilderness areas and renders many historic/classic routes inaccessible. It ignores the safety concerns associated with removing existing anchors and relying solely on natural features for protection. Replacing existing anchors with less secure alternatives would significantly increase the risk of accidents and fatalities both to individuals climbing and others in the area.

Section 2355.37 indicates the USFS will require Recreation Special Use Permits (SUP) when "consistent" with applicable law, directives, etc. "to increase visitor climbing opportunities." We  
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disagree that permits increase visitor opportunity as they, at a minimum, create a barrier to entry. We agree that permits are appropriate in situations where significant impacts to resources are caused by overuse. Current USFS regulations at 36 CFR 261.10(a) Occupancy and Use indicate "constructing, placing, or maintaining any kind of significant surface disturbance on USFS lands can require a special-use authorization." The directive should clearly indicate that SUPs will only be considered when significant surface disturbance is occurring to USFS lands.

#### Impacts to Other User Groups

While the proposed rule is directed at climbers, other user groups also use fixed anchors. Hunters may use a fixed anchor to haul harvested game, anglers may use fixed anchors for set nets or fish wheels, and trappers may use fixed anchors on their traps. In Alaska, the USFS must clarify this directive does not apply to state wildlife agency activities and those user groups due to Sec. 1316(a) of ANILCA.

The draft directive also does not clearly exempt other user groups who may climb and use fixed

anchors as ancillary equipment to their primary activity (e.g., hunters or trappers and state biologists conducting fish and wildlife management actions). We remind the USFS the Dingell Act directs federal agencies to:

... facilitate the expansion and enhancement of hunting, fishing, and recreational

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shooting opportunities on federal lands ...

As currently proposed, this directive has the potential to restrict hunting opportunities on USFS lands.

#### Specific Recommendations

\* We request the relevant statutes cited above in this letter be included in the final directive, Section 2355.01 -- Authority.

\* We request the following Alaska-specific provisions are added to the manual:

o 2355.04b - Washington Office, Director of Wilderness and Wild and Scenic Rivers: add requirement to consult with Alaska Region to account for differences in management requirements pursuant to ANILCA and other Alaska-specific regulation.

o 2355.21 - Climbing Management Plan: add a provision to item number 5 noting that, in Alaska, special access types including snowmachine, airplane, motorboat, and other non-motorized access methods, are protected under ANILCA Section 1110 on national forest land including wilderness.

o 2355.3 - Climbing Management: add a provision to item number 3 noting that access closures to CSUs (e.g., national forest wilderness areas) in Alaska must follow the closure process outlined in ANILCA Section 1110(a).

\* We recommend fixed anchors and fixed equipment not be identified as "installations" under the Wilderness Act and management of rock-climbing activities be driven by impacts to resources per existing USFS regulations.

\* We request the use and retention of existing fixed anchors and equipment not be subject to a Minimum Requirements Analysis.

\* We recommend the USFS produce a set of guidelines Forests can use to monitor impacts to the density and visibility of fixed anchors before implementing site-specific

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Dingell Act USC 7901(a)(1).

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restrictions. We believe the guidelines should be issued on a nationwide basis (with specific exceptions, mentioned above, in Alaska wilderness areas subject to ANILCA).

\* We recommend a climbing management plan and/or special use permits only be required when driven by documented significant impacts to resources, per 36 CFR 261.10(a). (If SUPs are required in Alaska wilderness areas, public notice and hearing, as well as a finding that the use is detrimental to resource values of the CSU must occur before SUPs can be required for climbing activities.)

\* Define what will constitute a "significant surface disturbance" regarding rock climbing routes. Also, please use "significant" as the adjective to describe disturbances and impacts to resource values that trigger USFS action.

\* We request references to wild and scenic rivers and their values be deleted from this directive. We recognize that the WSRA Section 10(b) specifically states that any portion of a WSR that flows through a designated Wilderness shall also be managed in accordance with the Wilderness Act. However, the public is often confused when Wild and Scenic River and Wilderness language are intermixed. Wild rivers outside of designated wilderness have no relation to wilderness-specific terminology such as

"naturalness," "solitude" and "primitive and unconfined recreational opportunities." Wild River corridors should not have major public use areas such as large campgrounds, interpretive centers, or administrative corridors, however, minor structures such as campsites, shelters, and boat launches harmonized with the environment are allowable. Please delete references to wild and scenic rivers to avoid confusion with allowed activities and structures.

\* We request the directive be reviewed for subjective language, such as "extensive or arbitrary placement" (2355.31.3) and "emphasize the natural setting of NFS lands." (2355.02.2) Subjective language should be deleted and replaced with language communicating the clear intent is to future readers. If the intent was to reference the "natural condition" the Act directs the USFS to manage its land to preserve in Section 2(c), please use the statutory language.

\* Regarding research activities (Section 2355.5), please clarify that fixed anchors and equipment will be allowed for State fish and wildlife agencies conducting research management activities.

Closing

We again request that fixed anchors be allowed on USFS lands, including within designated wilderness areas, unless significant impacts to natural or cultural resources are documented. We have concerns that this proposed directive creates an unnecessary burden for climbers and land managers alike. Thank you for the opportunity to comment; we hope that our suggestions are helpful as you consider making your proposed changes. Please contact me at (907) 269-0880 or by email at Catherine.heroy@alaska.gov to coordinate any follow up discussions.

Sincerely,

Catherine Heroy  
Federal Program Manager