



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

ANILCA Implementation Program

OFFICE OF PROJECT MANAGEMENT AND PERMITTING

550 West 7th Avenue, Suite 1430
Anchorage, AK 99501-3561
Main: 907.269-7529
Fax: 907-269-5673

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Director, Recreation Staff
USDA Forest Service
1400 Independence Avenue SW
Washington, DC 20250-1124

To whom it may concern:

The State of Alaska reviewed the September 24, 2020 Federal Register Notice (Notice) entitled "Forest Service Manual 7700 Travel Management; Chapter 7700, Zero Code; Chapter 7719 Travel Planning." The Notice states the Forest Service is revising the referenced directives to update and clarify guidance on management of electric bicycles (e-bike) on National Forest System (NFS) lands. The following comments represent the consolidated views of state resource agencies.

Recognizing that e-bikes expand recreational opportunities, including for the elderly and disabled, and enable the public to enjoy the outdoors and associated health benefits, the Notice indicates the proposed revisions are intended to provide guidance and criteria to allow the use of e-bikes on NFS roads, trails and areas where they are currently not allowed. The Notice indicates the proposed revisions will align with a standard definition for e-bike and a three-tiered classification system for e-bikes adopted by over 27 individual states and Department of Interior (DOI) agency proposed e-bike rules pursuant to Secretarial Order 3370 "Increasing Recreational Opportunities through the use of Electric Bikes."

We fully support the proposed policy revision to allow for e-bike use on National Forests and the definition for Electric Bicycles that applies a 3-tiered classification consistent with DOI agency definitions and the requirement to consider e-bikes where the use and effects are comparable to traditional bike use, particularly for a class 1 e-bike, which cannot be self-propelled as they require peddling (i.e. does not meet the definition of motor vehicle), and cease to provide any assistance after reaching 20 miles per hour. This is consistent with the DOI directive that acknowledges e-bike use and impacts more directly correspond with that of traditional bicycles.

We also support the proposed revision of Chapter 7710, Section 7715.72 to provide for enhanced coordination where trails cross multiple jurisdictions. The State of Alaska consists of a patchwork of federal, State, and private lands, including extensive Native Corporation lands. E-bike use is not restricted on state-owned lands located adjacent to the Tongass and Chugach National Forests, as well as state-owned lands, including submerged lands, located within the Forests. Enhanced coordination efforts will help to ensure unfettered public access to and across state and federal lands and prevent trespass on private lands.

There are specific access provisions in the Alaska National Interest Lands Conservation Act (ANILCA) that apply to conservation system units (CSUs) and other public lands managed by the DOI agencies and

the Forest Service in Alaska. These provisions, referenced below, allow for motorized and non-motorized methods of access, including bicycles.

ANILCA Section 1110(a) requires the Secretaries of Interior and Agriculture to allow snowmachines, motorboats, airplanes, and non-motorized surface transportation methods, including but not limited to bicycles, for traditional activities and for travel to and from villages and homes sites on all conservation system units (including designated Wilderness and Wild and Scenic Rivers), national recreation areas, national conservation areas, and lands designated by ANILCA for wilderness study.

ANILCA Section 811(b) requires the Secretaries of Interior and Agriculture to allow snowmobiles, motorboats and other means of surface transportation traditionally employed, on all public lands (not limited to CSUs and other units designated by ANILCA) for subsistence use by local residents.

Both ANILCA provisions are subject to “reasonable regulation.” Section 1110(a) also specifically requires notice and hearing in the vicinity of the affected area and a finding that the use would be detrimental to the resource values of the unit or area, before the implementing any closure or restriction. DOI implementing regulations for ANILCA Section 811 mirror this closure process. The Alaska Region of the Forest Service established regional policy to ensure national travel management regulations were implemented consistent with ANILCA.¹ As such, ANILCA protected methods of access on federal lands in Alaska are managed as “open until closed.”

While we recognize that e-bikes are not specifically authorized under ANILCA, we request the Forest Service be mindful that ANILCA requires a different management approach for traditional bicycles in Alaska, and provide explicit direction in the revised manuals to: 1) state that nothing in the directive applies to the methods or the “open until closed” status of access authorized in ANILCA; and 2) direct unit managers to consider ANILCA’s allowances when making decisions so that e-bike use is not unnecessarily precluded on roads, trails and areas where motorized and non-motorized methods of access, including bicycles in designated Wilderness, are allowed. For example, in providing reasonable access to subsistence resources (ANILCA Section 811(a)), e-bike use should also be allowed where subsistence users can use off-highway vehicles, even though e-bikes may not be considered “traditionally employed.” In addition, as noted above, bicycle use is allowed in designated Wilderness in Alaska. As a clean and quiet method of access, allowing e-bikes where bicycle use is allowed in designated Wilderness would extend the opportunity to enjoy and experience designated Wilderness to those who need some assistance in accessing these remote areas. Bicycles are an ANILCA-authorized mechanized form of surface transportation in designated Wilderness; snowmachines and airplanes are ANILCA authorized motorized methods of access in designated Wilderness. It would be illogical to prohibit e-bikes on the basis that the Wilderness Act prohibits mechanized and motorized methods of access in designated Wilderness when ANILCA modifies the Wilderness Act in Alaska and allows both.

¹ May 27, 2008 Regional Forester Directive to Forest Supervisors and Deputy Forest Supervisors Re: Subsistence Access and Travel Management Planning, File Code 2350-5/2600; and May 23, 2008 Interim Guide Providing Access for Subsistence Purposes (ANILCA 811) During Access and Travel Management Planning, Alaska Region Forest Service.

DOI SO 3370, which informed the DOI agencies' rulemakings, included additional direction to "simplify, unify, and reduce regulatory burden." Despite that direction, the three rules proposed by the DOI land management agencies (i.e., National Park Service, US Fish and Wildlife Service and the Bureau of Land Management) all identify significantly different processes. Our recommendation to meet the intent of the SO was for all DOI agencies to issue one regulation that mirrors the concept of "open until closed" that ANILCA applies to federal lands in Alaska. Similarly, instead of replicating the DOI agencies' more complicated and time consuming designation processes, we recommend the Forest Service implement a process that "opens" NFS lands to e-bike use, subject to a discretionary closure process at the local level to protect natural and other values based on an actual or reasonably likely need, consistent with DOI regulations at 43 CFR 36 that implement Section 1110(a) of ANILCA. This will provide greater assurance that increased recreational opportunities will be realized in accordance with the Notice's intent to promote e-bike use to increase recreational opportunities on NFS lands, while still providing the Forest Service with management tools to protect sensitive habitat and address other land management issues. If the Forest Service determines that that approach cannot be applied to NFS lands outside Alaska where ANILCA does not apply, the Forest Service could instead issue a separate directive for the Alaska Region. Doing so would result in more seamless management of all methods of access for both the Forest Service and the public in Alaska.

Thank you for this opportunity to comment. Please contact me at (907) 269-7529 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Magee", written in a cursive style.

Susan Magee
ANILCA Program Coordinator