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VIA Facsimile and Priority Mail

USDA Forest Service
Attn: NFS – EMC Staff (Barbara Timberlake)
Stop Code 1104
1400 Independence Avenue, SW
Washington, D.C. 20250-1104

Re: Notice of Administrative Appeal of the *Chugach National Forest Revised Land and Resource Management Plan Final Environmental Impact Statement and Record of Decision*

Dear Ms. Timberlake:

Pursuant to Forest Service regulations in 36 C.F.R. part 217, the Sierra Club appeals the *Chugach National Forest Revised Land Resource Management Plan and Final Environmental Impact Statement (FEIS)* and its associated *Record of Decision (ROD)*, notice of which was published in the Federal Register (67 Fed. Reg. 48894) on July 26, 2002.

This appeal is based on (1) the Forest Service's use of river suitability factors not authorized in the Wild and Scenic Rivers Act (Act); (2) the agency's flawed rationale for downgrading the classifications for suitable rivers it recommends for addition to the Wild and Scenic Rivers System (System); (3) the agency's unsound rationale for rejecting numerous suitable rivers for addition to the System; (4) the agency's decision to divide three suitable rivers into two segments each and propose the segments as individual units of the System; (5) the agency's decision not to include an alternative that uses the river corridor width specified by Congress in the Alaska National Interest Lands Conservation Act for Alaska units of the System; and (6) the agency's decision not to offer an alternative providing wild, scenic, or recreational status for rivers recommended by knowledgeable members of the public but not by the agency.

I. Two suitability factors used by the agency—public support or opposition to designation, and whether or not designation as a wild and scenic river is

the “best method” of protecting an eligible river—are not authorized by the Act.

Section 4(a) of the Wild and Scenic Rivers Act lists six factors the agency must consider in assessing the suitability of eligible rivers. The amount of public support or opposition is not one of them, nor is a “best method” determination. Nevertheless, the agency applied its two additional suitability factors in finding 14 eligible rivers unsuitable.

Ironically, the agency did even apply its public comment criterion accurately. As detailed in II and III below, the ROD consistently discounts support and overemphasizes opposition to river designation.

In applying the “best method” factor, the agency asserted that various management area “prescriptions” could accomplish the protection sought. However, even if the prescriptions could provide equivalent protection, which is highly debatable, they are only in force during the life of the management plan, whereas a river added to the System is given permanent protection.

Under the Act, Congress determines which is the “best method” of providing protection for eligible rivers. By attempting to substitute its judgment for Congress’s, the agency has clearly exceeded its authority.

II. The rationale for the suitability classifications given five of the six rivers recommended for the System does not support the classifications.

Five of the six rivers found suitable and recommended for inclusion in the System are given a classification or classifications lower than their eligibility classifications. Only one of the six, Portage Creek, is recommended at the same level (recreational) as its eligibility classification.

The decision to downgrade the five rivers to less protective classifications is not supported by the reasons provided.

1. Nellie Juan River. Although the river qualified as wild for its entire 25.1 length, including Nellie Juan Lake, the agency recommends only the lower 9.6 miles as wild.

According to the ROD, the deletion of the upper 15.5-mile segment is based on opposition to wild river designation by the Chugach Alaska Corporation (CAC), which “...has identified a potential road access corridor to their lands located adjacent to the upper 10.4 miles of the river.” FEIS Appendix D, p. D-71. The deletion “...is responsive to their concern with the potential hindrance to future road construction, necessary to access their private lands.”

CAC's lands are adjacent to the upper 10.4 miles, yet the ROD deleted 15.5 miles of the upper river. This leaves a middle segment of 5.1 miles that is not adjacent to CAC lands but that is deleted nonetheless. This middle segment is in exactly the same status as the lower river recommended for wild river designation; that is, found eligible for wild status, supported by the public for such designation, and not adjacent to CAC lands. No explanation is offered for the decision to delete the middle section.

Nor is the deletion of the remaining 10.4 miles of the upper river justified. As noted above, the deletion of the upper 15.5 miles is in response to CAC's opposition to wild river designation, which in turn is based on the corporation's "concern" that a potential future road to its lands could be hindered by wild river status. But the ROD fails to locate the potential road corridor in relation to the river corridor, leaving open the question of whether the road is within, adjacent to, or well away from the river corridor, or whether the road corridor would cross the river corridor at one or more points.

The route of the potential road is essential to an evaluation of the claim that construction of a road to CAC lands would be hindered by wild designation or by scenic or recreational classifications. The latter two classifications allow some degree of road construction. In the absence of such an analysis, the ROD does not support the deletion of the upper 15.5 miles of the river.

2. Twentymile River (complex). Although qualified for wild designation, the ROD recommends the river complex for scenic designation. Four reasons for downgrading the river are listed (*italics*):

a. Public comments received during the scoping period and on the Draft EIS were "primarily supportive" of scenic classification. However, as the ROD fails to provide details on the public comments, the public is unable to evaluate the substance of the ROD's assertion that they were "primarily supportive."

b. Scenic status would not impact future management of winter and summer motorized and nonmotorized recreational activities in the vicinity, and it would allow some development of recreational facilities and new trails. The implication is that wild status would somehow "impact" the activities cited above, but how or to what degree is not disclosed. According to the FEIS, however, wild status allows new trails, hike-in (or fly-in or boat-in) cabins, campsites, and "traditional access by motorized equipment." Other "recreational facilities" would not be allowed. FEIS, p. 3-444. Hence the downgrade to scenic status is apparently based on the Forest Service's desire to develop "recreational facilities" to a greater extent than that allowed under wild status. This is not a sufficient basis for downgrading the river to scenic.

c. Designation as scenic is consistent with the active management theme envisioned for the Kenai Geographic Area. Designation as wild is also consistent with active management, as shown by the ROD's wild river recommendations for upper Russian River and upper Snow River, which are also in the Kenai Geographic Area.

d. Scenic designation "...would not foreclose options for the Alaska Railroad to manage their lands located at the mouth of the river." The implication is that wild status would somehow foreclose these options. However, because the Railroad lands are outside the river corridor, wild designation would have no effect on the Railroad's use of its lands, nor would scenic or recreational designations.

Taken together, the four reasons for recommending scenic status do not support the downgrading from wild to scenic. The reasons offered reflect the agency's desire to retain the option to develop more intensive recreational facilities and perhaps to allow other developments. Over time, recreational developments and resource extraction allowed under scenic status would render the river ineligible for wild river status.

3. Sixmile Creek and East Fork Sixmile Creek. The division of Sixmile Creek into two separate river recommendations is not consistent with the Wild and Scenic River Act. East Fork Sixmile is actually the main stem of Sixmile Creek, as anyone who has run or even observed both creeks can testify. The real "fork," i.e., tributary, is Canyon Creek, whose volume is considerably less than that of East Fork. Thus it is erroneous and misleading to propose two segments of the Sixmile as separate units of the System. Sixmile and East Fork Sixmile constitute two segments of the same river.

These two segments were found eligible for scenic designation but are recommended for recreational status in the ROD. The reasons given for the ROD's lower classifications are virtually identical for both segments.

The ROD's rationale for the downgrade from scenic to recreational could, without a single word change, apply to scenic designation for both segments. That fact suggests that the ROD was drafted with the intent to recommend scenic designations, but that a last-minute decision was made to recommend the less-protective recreational status.

Five reasons (set out in italics) are given for the downgrade to recreational status:

a. Whitewater boating opportunities provided by East Fork are among the best on the Kenai Peninsula, while the same opportunities on the Sixmile are unparalleled on the Peninsula. This reason can support wild as well as scenic

designation, because the Sixmile has outstandingly remarkable whitewater boating opportunities, as recognized in the Appendix D evaluation.

b. Public comments were "primarily supportive of" recommending both segments "for designation." The public's preferred classification is not revealed. This curious omission may indicate that the public primarily supported scenic classification.

c. Designation [as recreational] would not impact future management of winter and summer motorized and nonmotorized recreational activities in the vicinity. It would allow some development of recreational facilities and new trails to accommodate river users. Please see response to points 2 and 3 for Twentymile River, above.

d. Designation [as recreational] would not foreclose options for the State to manage their lands located above and below the eligible section on federal land. Nor would wild or scenic designation, because the State's lands would not be within the System. As the discussion in Appendix D notes, "Designation of the river as a Scenic River would probably not affect state management intent in the vicinity." FEIS Appendix D, pp. 11, 16. In fact, designation could enhance state management by encouraging the State to cooperatively manage its lands and perhaps eventually add them to the state recreation rivers system.

e. Designation [as recreational] is consistent with the active management envisioned for the Kenai Geographic Area. Scenic designation is also consistent with active management, as the ROD acknowledges for its Twentymile scenic river designation, above.

In sum, the ROD does not support the downgrading of Sixmile Creek and East Fork Sixmile Creek to recreational status.

4. Russian River. This river was found eligible as wild for its upper 14.3 miles, and scenic for its lower 3.0 miles. The ROD recommends wild for the upper 12.4 miles and scenic for the lower 4.9 miles. (There is some confusion as to the length of the lower river as measured from the confluence with the Kenai River upstream to the falls. In the ROD, the length is said to be 4.9 miles; in the eligibility evaluation 3.0 miles.)

Three reasons are offered for changing the lower river from scenic to recreational.

a. Public comments were "primarily supportive of" adding the river to the System. The public's preferred classification is undisclosed. This curious omission may indicate that the majority of public comments favored scenic status for the lower river.

b. *Recreational classification is "...consistent with current and future expected use patterns in the area. A recreational classification would allow some development of recreational facilities and new trails to accommodate river users."* Scenic designation would also allow some development of recreational facilities and new trails, as the ROD acknowledges in the case of the lower Snow River and the Twentymile River scenic recommendations. Because downgrading a river segment to recreational status is not necessary to allow such developments, the reason stated does not support the decision to downgrade the segment.

c. *Designation of this river is consistent with the wilderness management of national wildlife refuge lands on the west side of the Russian River.* This statement is correct as applied to the upper Russian River recommended for wild river status, but incorrect as applied to the lower river recommended for recreational status. The entire west side of the river is in refuge wilderness. Thus for the lower river, a wild river classification would be most consistent with wilderness refuge management, followed by scenic, and lastly by recreational, which would allow various developments not appropriate on the boundary of a wilderness area.

5. Snow River. This river was found eligible as wild for its entire length of 23.8 miles, but the ROD divides the river into two separate river recommendations, an upper river segment of 18.7 miles proposed for wild status, and a lower river segment of 5.1 proposed for scenic status.¹ As noted below, recommending segments of the same river as individual units of the System is not consistent with the Act.

Three reasons are cited in support of the decision to downgrade the lower segment:

a. *Public comments were "primarily supportive of" wild designation for the entire river.* Thus public comments support the upper river recommendation, not the downgrading of the lower 5.1 miles to scenic.

b. *Scenic status for the lower river is consistent with the active management vision for the Kenai Geographic Area because it would allow some future increase in recreational use and potential facilities development.* Designation as wild would allow recreational use and potential facilities development as well, but not the potential new mining claims and logging that scenic designation would allow and which over time could disqualify the lower river for wild status.

c. *Wild designation for the upper 18.7 miles is justified on the basis of the river's being "so remote."* Remoteness is not one of the six factors to be considered in determining suitability of eligible rivers for addition to the Wild and Scenic Rivers Act. FEIS Appendix D, pp. D 1-3.

¹ There is some confusion as to the length of the segments. Table 4 on page 19 of the ROD lists the lower as 9.1 miles scenic, the upper as 14.7 miles wild.

III. The rationale for declaring numerous eligible rivers unsuitable is flawed and does not support the decision not to recommend the rivers for addition to the System.

1. Bear Creek. Bear Creek was found to be eligible for recreational designation. The ROD offers three reasons in support of its unsuitability finding.

a. *Several public commentators opposed designation because of past mining.* According to the Microsoft Access Database (Database) of public comments, the Alaska Miners Association opposed designation. A miner/recreational user urged continued access and additional protection for the creek. Two letter-writers recommended designation. Thus the number of comments received does not support the assertion that "several" commentators opposed designation.

b. *Designation as a recreational river could hinder the operations of the active mining claimants on the river.* Although the word "hinder" is not defined, the discussion in Appendix D comes to the opposite conclusion: it notes the presence of "numerous" placer claims on the creek and that "Designation as a Recreational River would allow for future minerals development work with appropriate mitigation of effects within the river corridor."

c. *"Treatment" of bark beetle-infested timber near the creek may not be compatible with designation.* However, the FEIS at pp. 3-438, 9 indicates that such treatment is permissible under scenic and recreational classifications and probably under wild classification as well.

2. Canyon Creek. Canyon Creek, a tributary of Sixmile Creek, is eligible for scenic designation. Despite its attributes, Canyon Creek is declared to be unsuitable. Three reasons are offered.

a. *Relatively few comments for or against designation were received.* According to the Database, four comments favored designation, and two comments opposed designation.

b. *Designation as a scenic river could hinder the operations of active mining claimants.* A clue as to what "hindrance" involves is in the FEIS, which indicates that a scenic designation "...would allow for future minerals development work with appropriate mitigation of effects within the river corridor." Appendix D, p. D-19. In declaring the creek unsuitable, the Forest Service is here arbitrarily siding with owners of unpatented and patented mining claims whose economic interest lies in avoiding mitigation measures designed to minimize degradation of water quality and quantity that support the anadromous fishery, recreation, aesthetic, and other values of the creek, an integral component of the Sixmile Creek complex.

c. *The State has selected lands along the creek that may be conveyed. Moreover, designation of the creek may not be compatible with state management objectives for existing state-owned land above and below the eligible segment.* However, even if the selected lands, a three-mile segment, are conveyed, this would leave about five miles of the creek eligible for designation. Designation as a scenic river could encourage the State to engage in cooperative management and perhaps ultimately lead to the addition of the state-owned segments to the state recreation rivers system. In any event, the possibility that designation might be incompatible with state management is not a suitability criterion allowed under the Wild and Scenic Rivers Act.

3. Palmer Creek. This creek is eligible for scenic designation. The ROD bases its unsuitability recommendation on two considerations.

a. *Relatively few public comments for or against designation were received.* According to the Database, four comments favored supported designation as scenic, two opposed designation, and two were duplicates.

b. *The Fish and Wildlife Conservation management prescription would protect the Creek's values and free-flowing condition.* This reason is not supported by a discussion of the uses the management prescription would allow or disallow in the Palmer Creek corridor. For example, the Fish and Wildlife Conservation prescription would not prohibit hydroelectric power facilities, major water supply dams, fish projects, or diversions, which as the FEIS acknowledges "...are generally not compatible with the themes and management intent of Category 1 and 2 management area prescriptions." FEIS, p. 3-448, emphasis added. Thus under the Fish and Wildlife Conservation prescription the door is left ajar for future developments that would disqualify the creek for scenic (and recreational) status.

4. Portage Lake. Portage Lake, the source of Portage Creek, qualifies as eligible as a scenic component. The ROD deems it unsuitable based on three considerations.

a. *Relatively few comments for or against designation were received.* According to the Database, two comments favored designation, one opposed designation, and three apparently could not be listed as either for or against.

b. *Its outstanding remarkable values, water quality, and free flow would likely be protected by application of the Backcountry management area prescription.* This claim is not accompanied by a discussion of the uses and activities permitted under the Backcountry prescription. A review of those uses and activities indicates that during the time the *Revised Land and Resource Management Plan* is in effect the lake's current scenic eligibility would likely be threatened or even lost.

c. *There is a closure because of the potential safety hazard of floating icebergs. Operators under special use permits provide commercial tours on Portage Lake.* This observation implies that suitability depends on whether private boats can be safely floated on a lake. Navigational considerations are not a criterion for suitability under the Wild and Scenic Rivers Act. River-lake systems incapable of being navigated can qualify for addition to the System.

5. Kenai River. This uppermost segment of the river is eligible as recreational but is declared unsuitable in the ROD. The ROD supplies three reasons for the declaration.

a. *Most of the river is in non-federal ownership; the federal portion is very small; the State and other landowners would not support designation.* According to Appendix D, "...all lands within ¼ mile of the Kenai River from the mouth of Russian River upstream to the present bridge across Kenai River at Cooper Landing are classified as a power site (July 10, 1950)." FEIS Appendix D, p. D-54. This one-quarter-mile wide corridor, which extends for a distance of 5.5 four miles, cannot accurately be described as "very small." Ibid, p. D-50. As a designated recreational segment, this corridor would afford a significant measure of protection for immensely important river and riparian habitat, and would complement the objectives of the State's Kenai River Area Plan.

Whether the State and other landowners would oppose designation is not a criterion for suitability under the Wild and Scenic Rivers Act.

b. *Its values, water quality, and free flow would likely be protected with the application of the protections specified in the state area management plans.* This assertion is not defended in the ROD. As described in Appendix D, the State's Kenai River Area Plan provides, among other uses, for commercial recreational leasing, land sales and "long-term use authorizations," as well as "community use" timber cutting. In any event, the State's plan does not apply to the federal lands in question. Federal land managers are not authorized by Congress to rely on plans governing adjacent non-federal lands for the protection of federal lands and rivers under their jurisdiction.

c. *Relatively few comments for or against designation were received.* According to the Database, 33,860 comments were received, of which over 30,000 favored scenic designation for the Kenai River.

6. Coghill River. Eligible for wild designation, this river-lake system is found unsuitable for addition to the System. The ROD gives two reasons for the finding.

a. *Relatively few comments for or against designation were received.* According to the Database, 33,860 comments were received on the issue of potential wilderness designation for the river and surrounding Wilderness Study Lands.

More than 30,000 comments supported wilderness designation, which is an indication of support for wild river designation as well, given that wilderness and wild river classifications offer virtually the same level of protection.

b. *Its outstandingly remarkable values, water quality, and free flow would likely be protected with the application of the Wilderness or Wilderness Study Area management area prescription.* If added to the Wilderness System, Coghill River would be permanently protected, but its addition may not occur. Whether it is added or not is beyond the control of the Forest Service. Therefore the possibility of a wilderness designation covering the river does not support the decision to find the river unsuitable.

The Wilderness Study Area management area prescription currently safeguards the river until such time as Congress acts on the wilderness recommendations of the Forest Service and others. If Congress rejects wilderness designation for the river and surrounding forest lands, then the river would be exposed to uses and developments that could disqualify it for future consideration as a wild river. Thus the existing interim protection for the river afforded by the Wilderness Study Area management area prescription does not support the decision to find the river unsuitable.

7. Cascade Creek. This two-mile-long stream is eligible for wild designation but is found unsuitable for the same two reasons cited for finding Coghill River unsuitable: relatively few comments received and a claim that Wilderness or Wilderness Study Area management would suffice to protect the river's values.

With respect to the public's comments, the Database indicates that no comments were received. That cannot be the case because the Sierra Club and others submitted comments recommending wild river designation.

As for protecting the river through potential wilderness designation and temporary protection under wilderness study area management, please see response to point 2, Coghill River, above.

8. Martin River and Lake. Eligible as wild for its entire length of 26.3 miles, the river and lake are declared unsuitable. The reasons offered in support of the decision are:

a. *Its outstandingly remarkable values, water quality, and free flow would likely be protected with the application of the 501(b) – 1 management area prescription.* This claim is not accompanied by an analysis of how this type of management would affect the river's/lake's values, and hence its eligibility for wild designation.

Nor is the prescription compared with wild river management, which would offer a higher degree of protection to the river's values, according to the management prescription activity matrix, FEIS Appendix J.

A 501(b) – 1 prescription allows uses incompatible with maintaining the attributes that now qualify this river/lake system for wild designation, including soil/watershed projects, vegetation management, fish habitat projects, wildlife habitat projects, pest management, prescribed fires (conditional), personal use logging, "mineral activities-saleable," i.e., mining sand, gravel, rock (used extensively in road construction) and building material, locatable minerals activities (conditional), "hut-to-hut type recreational cabins," i.e., large dormitory-style structures (conditional), boat docks and ramps, and "parking lots at trail heads and ferry terminals etc."

b. *There was considerable opposition to congressional designations in Cordova, because residents felt that future options for management of fish and wildlife habitat may be curtailed with such a designation.* According to the Database, no comments were received on Martin River and Lake. However, this cannot be the case, because appellants submitted comments in support of wild designation for the river and lake, and the ROD refers to the opposition of some Cordova residents.

The claim that future management options would be foreclosed by wild river designation is not evaluated in the ROD. Instead, the ROD simply accepts the opposition from some Cordova residents as justification for the unsuitability determination. However, the agency concludes in Appendix D that, "Designation as a Wild River would have no effect on future fisheries and wildlife habitat enhancement opportunities because the Revised Forest Plan provides for the conservation of fish and wildlife and their habitats within the ANILCA 501(b) area." FEIS Appendix D, p. D-81.

This confusion on the part of the agency as to the effect of wild river designation on potential fish and wildlife enhancement opportunities should be resolved. In any event, opposition on the part of some local residents is not sufficient to support the decision that the river and lake are unsuitable.

9. Alaganik Slough and Unnamed Tributary. This river segment (actually a channel of the lower Copper River) is eligible as a scenic river, but the ROD rejects suitability based on:

a. *There was considerable opposition to congressional designations in Cordova, because residents felt that future options for management of fish and wildlife habitat may be curtailed with such a designation.* According the Database, six comments were received from Cordova residents, four supporting designation (classification apparently not available), and two duplicates. No comments opposing designation are listed in the Database.

With respect to the claim that future management options would be foreclosed by scenic designation, the discussion in Appendix D indicates that the only option that would be foreclosed would be dams to divert water or create artificial lakes: "Designation as a Scenic River could restrict fish enhancement opportunities somewhat if the proposed projects involved water diversions or impedance of flow but would otherwise be consistent with the purposes of ANILCA." FEIS Appendix D, p. D-84.

b. *Its outstandingly remarkable values, water quality, and free flow would likely be protected with the application of the 501(b) – 2 management areas [prescription].*" This claim is not supported by a discussion of how 501 (b) – 2 management would affect the river's values. The 501(b) – 2 prescription allows more development and uses than does the 50(b) –1 prescription. These uses are incompatible with maintaining the attributes that now qualify the slough as scenic. In comments submitted during the planning process, the Sierra Club noted that the eligibility analysis indicates that the slough below the access road qualifies for wild river designation.

10. Copper River, Upper and Lower. Both the upper river segment of 51.3 miles and the lower river segment of 25.3 miles are eligible for wild river designation. Both are declared unsuitable because:

a. *There was considerable opposition to congressional designations in Cordova, because residents felt that future options for management of fish and wildlife habitat may be curtailed with such a designation.* According to the Database, no comments were received on the river as a potential wild river. This cannot be the case, as the Sierra Club, other citizens' organizations, and other members of the public registered their support for wild designation for the river.

Comments were received on wilderness designation for the Copper River Delta. As wilderness designation is similar to wild river status, the wilderness comments on the general Copper River area probably reflect public sentiment on potential designation of the river. Of the 31,114 comments received, over 30,000 supported wilderness designation. Of the 115 comments by Cordova residents, 76 favored wilderness designation, 23 supported 501(b) status, i.e., were opposed to designation, and 16 were opposed to designation. This suggests that there was considerable support, not opposition, in Cordova for giving the Copper River the highest level of security.

Regarding the claim that future fish and wildlife enhancement opportunities would be foreclosed, a claim that is used to support the non-suitability finding, the ROD does not evaluate how a wild designation might affect such opportunities. According to the discussion in Appendix D, "Designation as a Wild River would restrict fish enhancement opportunities somewhat if proposed projects involved

water diversions or dams but would otherwise be consistent with the purposes of ANILCA." Appendix D, p. D-97.

b. *Its outstandingly remarkable values, water quality, and free flow would likely be protected with the application of the 501(b) – 1 and 501(b) – 2 management area prescriptions.* Again, the ROD does not discuss how the prescriptions would affect the river's outstandingly remarkable values. As noted above, both prescriptions allow uses and development that can degrade the river's values and disqualify it for wild designation.

c. *In the case of the upper river, only a minor portion of the river above the Million Dollar Bridge flows through National Forest System lands, consisting primarily of small islands in the river above Miles Lake, a parcel on the east shore across from Whiting Falls, and two 40-acre parcels by Childs Glacier. The Chugach Alaska Corporation owns private land in the vicinity. They are opposed to any congressional designations adjacent to their lands.* The assertion that only a minor portion of the river above the bridge is national forest land does not hold water. According to the map entitled "Revised Land and Resource Management Plan," the east side of the river (river left) from near the Million Dollar Bridge upstream to the Wernicke River, a distance of some 25 miles, is national forest land. This fact is implicitly recognized in the finding of eligibility. If only a tiny amount of the upper river were federally owned, as asserted in the ROD, the upper river probably would not have survived the eligibility evaluation.

11. Bering River and Lake. The upper 6.6 miles of the river is eligible for wild designation, and the lower 25.2 miles for scenic designation, according to the river Wild and Scenic Rivers Evaluation.

In the first place, the eligibility determination is badly flawed. It is based on two right-of-way routes granted to the Chugach Alaska Corporation for access to the Bering River coalfields and Katalla. However, the Bering River coalfields route reaches the upper end of the river, while the Katalla route skirts the lower end of Bering Lake and avoids the main stem of the Bering River altogether. Thus the main stem from the coalfields access road to the sea is eligible for wild designation. Bering Lake qualifies for scenic status, while the west fork from the main stem to the lake qualifies as wild.

The reasons given for the unsuitability finding are identical to those provided for the Copper River Lower. Please see the analysis of the Copper River Upper and Lower, above. According to the Database, of the 385 comments received, 359 supported designation, although the classifications preferred are apparently not specified. Twenty-eight reviewers opposed designation.

12. Katalla River. The upper 4.8 miles were found eligible for wild river designation, the lower 7.1 miles eligible for scenic designation. The reasons given for the unsuitability finding are identical to those provided for the Copper

River Lower. Please see analysis of the Copper River Upper and Lower, above. According to the Database, 2,311 comments were received on the alternative providing wilderness designation for the Copper River Delta, of which over 2,200 recommended wilderness designation. It is safe to assume that the pro-wilderness comments indicate support for at least a wild/scenic designation for the Katalla River.

13. Nellie Martin River. This 2.0-mile-long river is eligible for wild designation. Two reasons are listed for finding the river unsuitable:

a. *Relatively few comments for or against designation were received.* According to the Database, two reviewers supported designation, probably the original wild/scenic eligibility finding. One comment was a duplicate.

b. *Its outstandingly remarkable values, water quality, and free flow would likely be protected with the application of the Fish and Wildlife Conservation management area prescription.* The ROD fails to discuss how the prescription would likely protect the river's values. As noted in the discussion of Palmer Creek, above, the prescription allows uses that would disqualify the river for consideration by Congress for wild river status.

14. Number 1 River. Found eligible for wild status, the river is declared unsuitable because:

a. *Relatively few comments for or against designation were received.* Four comments were received supporting designation for the river, presumably as a wild river.

b. *Its outstandingly remarkable values, water quality, and free flow would likely be protected with application of the Wilderness or Wilderness Study management area prescriptions.* For analysis of this claim, please see comment the Coghill River, above.

IV. The agency's decision to divide three suitable rivers into two segments each and propose the segments as individual units of the System is not authorized by the Act.

Sixmile Creek is divided into a Sixmile Creek segment and an East Fork segment, and the Russian and Snow Rivers are divided into upper and lower river segments. The six segments are then each recommended for addition to the System as individual river units.

The divisions allow the agency to claim that it is recommending that nine rivers be added to the System, when in reality only six rivers are so recommended. This treatment of the three rivers is not consistent with the Act. Nor is it consistent with Forest Service policy for Tongass National Forest rivers. In

recommending a number of Tongass rivers for addition to the system, the agency did not engage in river-splitting for the purpose of expanding the number of rivers allegedly being proposed for the System.

Elsewhere in Alaska, rivers in the System are considered single units, although they may have different classifications for different segments or forks, e.g., the Fortymile River.

Thus there is no basis in law or policy for the agency's decision to split the three Chugach forest rivers into individual river proposals.

V. The Forest Service failed to offer an alternative using the ANILCA standard of one-mile-wide river corridors.

In the Alaska National Interest Lands Conservation Act of 1980 Congress designated 25 rivers as units of the System. The Act specifies that river corridors shall average 640 acres per mile, which translates into boundaries extending on the average one-half mile from each bank of the river. This width is twice the width authorized in the WSRA, which the agency adopts for the purpose of its wild and scenic river evaluation and recommendations.

In doubling the width of the corridors for the Alaska units, Congress responded to the opportunity presented by Alaska's generally undeveloped rivers and public lands to fully realize the purposes of the WSRA. Most of the eligible rivers were completely free of development along their entire lengths, a condition that enabled river planners to propose more complete protection of the rivers' outstandingly remarkable values. For example, a corridor could be less than one-half mile from each bank where the river flowed through relatively narrow valleys or canyons, and more than one-half mile where the boundary could encompass additional remarkable and important values and resources, e.g. anadromous fish spawning beds in a clear-water tributary.

This same opportunity to recommend mile-wide corridors is present in abundance on the Chugach National Forest. Nevertheless, the agency has ignored the intent of Congress in ANILCA by refusing to consider an alternative utilizing the ANILCA corridor width standard. No explanation is offered for this arbitrary omission.

VI. The Forest Service failed to offer an alternative for rivers proposed by citizens and citizens' organizations but found ineligible by the agency.

In comments submitted during the planning process, the Sierra Club (and other citizen organizations) recommended numerous rivers for addition to the WSRS. The Sierra Club recommended the following rivers and classifications, based on the field knowledge of its members and other knowledgeable citizens:

1. Sixmile Creek Complex composed of Sixmile Creek/East Fork Sixmile (S), Granite Creek (S), Bench Creek and Lake (W), and Canyon Creek (S).

Although the agency endorsed the concept of a "complex," i.e., the inclusion of major headwater tributaries, as shown by its own recommended Twentymile Complex, it declined to apply the concept to the Sixmile Complex, the outstanding river complex in the Kenai Geographic Area of the forest. It found Granite Creek and Bench Creek/Lake, two of the three major tributaries of Sixmile Creek, ineligible, and hence did not evaluate them in Appendix D. It declared Canyon Creek, the third major tributary, unsuitable. However, the three tributaries, featuring free-flowing, beautifully clear waters, are integral components of the Sixmile system, and their inclusion in the System would complement protection of the Sixmile, the centerpiece of the complex. Most importantly, the agency did not offer for public comment an alternative that included comprehensive protection of the Sixmile complex.

2. Resurrection River (W). This river was declared ineligible and not evaluated in Appendix D. Lands on the west side of the river are partly within the Kenai National Wildlife Refuge Wilderness and mostly within Kenai Fjords National Park. Wild river designation for lands within the forest would complement the adjacent wilderness and park protection for the west bank lands.

The desirability of complementary management is recognized by the agency in its wild river recommendation for the upper Russian River, whose headwaters adjoin the headwaters of Resurrection River. Its recommendation is based in major part on the west bank of the Russian River being within the Kenai Wilderness.

Although wild river designation of the east bank of the Resurrection River would accomplish complete protection of the river, the agency declined to offer an alternative that would achieve this objective.

3. Gravina River (W). Although found to have outstandingly remarkable recreational values, the river was declared ineligible and not evaluated in Appendix D. The agency declined to offer an alternative proposing the Gravina River for wild river designation.

Summary and Conclusions.

The agency's wild and scenic river evaluation and recommendations are not consistent with the purposes and intent of the Act. Given the opportunity and responsibility to recommend permanent protection for some of Alaska's—and the nation's—outstandingly remarkable and magnificent rivers and streams, the Forest Service chose instead to cater to local commercial interests that

reflexively oppose increased safeguards for the forest's rivers. As a result, the Forest Service recommended a mere six rivers for the national system.

Making matters worse, the agency chose to brush off citizen supporters of river protection with a rationale in the Record of Decision that is outstandingly remarkable for its careless and unconvincing reasoning, and its obvious hostility to the purposes of the Act.

Hence this appeal of the Revised Plan. The situation calls for—and this appeal requests—the Chief of the Forest Service to order a new river evaluation process, followed by a serious discussion of decisions to recommend or not recommend rivers for addition to the System.

Thank you for this opportunity to present the views of the Sierra Club.

Sincerely,

Jack Hession
Senior Regional Representative

