



BACKCOUNTRY HUNTERS AND ANGLERS ALASKA CHAPTER



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Attn: Brandon McCutcheon – Plan Project Manager
David Griffin – Field Manager
Alaska Department of Natural Resources
550 West 7th Avenue, Suite 1050
Anchorage AK 99501-3579

Knik River Public Use Area – Public Review Draft Comments

Dear Mr. McCutcheon, Mr. Griffin, and DNR staff,

Thank you for the opportunity to comment on this last phase of the KRPUA draft management plan.

Alaska Backcountry Hunters and Anglers (AK BHA) is a dedicated group of hunters and anglers committed to the long-term conservation of habitat that all fish and wildlife populations depend upon, and to ensuring that future generations have the same opportunities for backcountry hunting and fishing that we have now.

Our comments on the Public Review Draft (PRD) are as follows:

Enforcement

The one thing all user groups agree on is that KRPUA needs more law enforcement presence, and that it needs it **right now**. Any management plan that DNR develops is effectively moot without an on-the-ground (and on the water) enforcement presence during peak use times. If DNR does not commit to utilizing the additional KRPUA funds designated by the legislature to contract out enforcement personnel in order to have a real presence within the PUA, then no plan can live up to the mandates in the enabling legislation and be successful. We believe the intent of the

legislature was for DNR to use the designated funds to provide on-the-ground enforcement within the PUA in high-use areas and at peak-use time periods, and not to simply pay for “on call” contractual law enforcement. An enforcement presence that only occurs “on call” is not going to be effective in curbing and stopping the rampant unlawful activities that threaten public safety, damage habitat, and potentially harm fish and wildlife populations.

Rippy Trail Development: Preferred Action

AK BHA strongly **supports** the preferred action to designate the 836 acres around Rippy Trail, including Rippy Trail within that boundary, as a non-motorized use only area.

There is compelling evidence to support making this area a non-motorized use only area. Historical data shows that ATV’s didn’t begin accessing Rippy Trail beyond the first mile of the old logging road until the 1990s when newer and more powerful machines became available. Photographs submitted to DNR show the subsequent and continuing habitat damage and deep rutting to Rippy since that time.

In an attempt to engage motorized clubs and groups in discussion of a possible compromise position on Rippy Trail that we could all support (such as a possible seasonal restriction), we were shocked to find out that unless we first agreed with 100% motorized access everywhere and at all times that these groups would not talk with us. This surprisingly inflexible and stubborn stance from the motorized groups reflects an apparent disregard for fish and wildlife habitat that is at the core of our AK BHA mission, and no concern whatsoever for the real abuse and damage this trail has already seen.

We have read and heard the positions of some of the motorized groups that call for the Trails Management Process (TMP) to be used to further study Rippy, which would mean another lengthy public process with the same comments and data and photographs that DNR planners have already seen and spent so much time going over during this lengthy public planning process. Those who espouse using the TMP to decide the Rippy Trail issue are in effect supporting more abuse of habitat and continuing irreconcilable user-group conflicts.

AK BHA cannot stress enough our opposition to using the TMP to decide something that DNR already has compelling evidence to move forward with. In essence, the TMP was already followed as part and parcel of the KRPUA public draft management plan process.

We urge the Commissioner to review the comments previously sent in, along with the convincing photographic evidence showing the damage to habitat on Rippy Trail caused by motorized use in just the last decade, as well as the real danger this poses to anadromous fish populations and the wetlands below, and consider the (non)feasibility and cost of upgrading and re-routing Rippy to make it a sustainable motorized trail. We urge the Commissioner to support the preferred alternative in the PRD and not allow continued abuse to take place in this area.

Motorized Restrictions on Waterbodies: Preferred Actions

Restriction of watercraft to not more than 5 horsepower on Jim Lake and associated wetlands:

AK BHA **supports** this preferred action. We believe this is a fair compromise between all user-groups, and that it recognizes the importance and sensitivity of the waterfowl nesting and rearing areas on Jim Lake and the associated wetlands.

However, we are also concerned that this restriction may not go far enough to protect and maintain the waterfowl populations and habitat they depend upon. This lakes and wetlands habitat was not long ago considered “critical” habitat for waterfowl nesting, breeding, and brood rearing. It is now essentially (de)listed as “sensitive” habitat in the PRD.

Studies show that disturbance from high-speed boats on waterfowl during the nesting and rearing stages can negatively affect survival and future nesting locations.

In reviewing some of the aerial pictures taken in the recent past of the Jim/Swan lakes and wetlands, there is evidence that airboats are not following just one or two trails through marshes and fens; rather there are areas where these airboat trails encompass entire areas of marshes. This

damages habitat and degrades waterfowl nesting areas and is clearly not a sustainable use.

If this preferred action on Jim Lake and associated wetlands is taken, and there are no other restrictions on motorized watercraft in the remainder of the lakes, we would encourage DNR and the airboat community to begin an education campaign designed to alleviate the abuse already going on and to inform users of the impacts high-speed boats can have on waterfowl throughout the nesting and rearing season. Airboaters and other motorized watercraft users should also be informed of the possibility of future motorized restrictions (according to mandates in the governing statutes) if users chase or harass waterfowl or if this abuse continues.

We recognize the importance of future data collection and observations of waterfowl populations and nesting areas, water quality, and other data so that DNR can make management decisions that continue to protect and maintain water quality and waterfowl populations. We support grants to individual groups or organizations to collect this data.

5 MPH speed limit along portion of McRoberts Creek:

This proposed speed limit restriction along McRoberts Creek recognizes the real safety issues when two powerboats, or one powerboat and a non-motorized watercraft, are traveling in opposite directions along narrow and winding creek channels where visibility is limited.

AK BHA agrees that there are safety issues along this section of McRoberts Creek, and we believe there are the same safety issues along stretches of upper Jim Creek and other waterways in the Lakes and Wetlands unit.

If motorized watercraft use is going to be allowed along McRoberts and upper Jim Creek and other channels, perhaps education (rather than a MPH restriction) is the key to effectively preventing any accidents.

Airboaters and other motorized boaters need to stop in certain places and shut down their engines and listen for oncoming traffic. They need to slow down in areas where the creeks are windy and they can't see very far. Some boaters do this already, but some don't.

In talking with airboat users it came to our attention that it may be hard to effectively steer an airboat at such a low (5 MPH) speed. And other boats need to be on step (requiring higher speeds) in places where the creek may be grassy in order to navigate without fouling prop or jet unit.

Overall, we support the intent of this preferred action to protect all watercraft users. Regardless if this action is taken, we recommend an education campaign about the dangers in navigating all the narrow, winding waterways with powerboats, how to avoid accidents, and how to act responsibly when encountering other user-groups on the waterways.

Manmade Lake non-motorized use only:

AK BHA **supports** the non-motorized use only restrictions on Manmade Lake during the ice-free season, as well as the speed-limit restriction for motorized vehicles in a 100-foot wide circumference around the lakeshore.

Recreational discharge of firearms and proposed shooting areas

AK BHA initially opposed any restrictions on the discharging of firearms for non-hunting purposes. However, as time has gone by, we realize that the unsafe shooting within portions of the PUA is completely out of control and that something must be done before someone is wounded or killed. The noise of gunshots also negatively affects the experience of many users of the PUA, as well as residents who live adjacent to it. Many people who used to recreate in the PUA are now afraid to go there because of (real) fears of being accidentally shot. We are still concerned about lead from bullets entering waters and a continued dumping (and shooting) of all manner of hazardous materials used for “target practice” that also can be toxic to the land and waters.

At this time, AK BHA would support a ban on recreational discharge of firearms in all high use areas where such a practice is deemed unsafe by DNR or incompatible with other uses.

Proposed designated shooting area/range in Maud Road area:

AK BHA strongly **opposes** the proposed designated shooting area/range in the Maud Road area near Mud and Jim lakes. If a camping area were to be

developed near the Jim Lake parking area, a designated shooting range/area in such close proximity would negatively conflict with the experience of campers. The steep terrain features of this proposed shooting area amplify and echo gunshot noise down to the lakes below, and if Jim Lake is to be non-motorized use only, a shooting range/area in the proposed location seems incompatible with “quiet” use of Jim Lake.

Proposed designated shooting area/range in the Pavilion area:

AK BHA also **opposes** developing a shooting range in this location. The proximity to residences and the likelihood of abuses taking place (i.e. not shooting within the confines of any range and backstop) are not conducive to having a shooting range here.

As we stated in earlier draft plan comments, KRPUA is not a shooting range and neither do we feel it should become one. There is ample opportunity elsewhere for the public to safely sight in firearms and go target shooting.

By designating shooting ranges within the PUA, especially near access points and in close proximity to residences and planned facilities, DNR is essentially welcoming and condoning something that instead should be curtailed or stopped.

User Fees

AK BHA has always supported user fees as per the intent of the legislature in order to fund facilities, maintenance, education, and possibly more law enforcement and/or DNR staff presence. We don't believe the PUA can function sustainably without future user fees.

Sustainability and “Saturation”

DNR is obligated by statute to protect and maintain fish and wildlife habitat within the PUA. But the Department is also obligated to “perpetuate and enhance general public recreation.”

These two mandates can often conflict with each other. Time and time again we have seen areas of public lands that see high levels of human use reach a

“saturation” point. Invariably when this point is reached the habitat is already damaged and fish and wildlife populations are negatively affected.

If (as it appears in the PRD) DNR chooses to put a higher priority on perpetuating and enhancing general public recreation than it does in protecting and maintaining fish and wildlife populations and their habitat, then that in essence ensures that habitat and fish and wildlife populations will eventually suffer.

Rather than wait until habitat damage or harm to fish and wildlife populations is discovered, a good management plan should determine beforehand what levels and types of use certain areas within the PUA can sustain before this harm occurs.

The “Six-inch rule”

In the event that DNR decides (under Phase 1 regulations) to designate “significant rutting” or “disturbance” of wetlands or the vegetative mat within the PUA as any rutting greater than six inches in depth, we would like to again comment as to why we strongly **oppose** such a regulation.

We believe that telling the ORV community that what constitutes “harm” to wetlands and the vegetative mat is any rutting greater than six inches in depth is like giving the ORV community a free pass to wreak havoc on lands they shouldn’t be driving on in the first place.

This regulation encourages irresponsible use, and if it is adopted there is nothing to stop widespread abuse of wetlands habitat. If one ATV makes a rut five inches deep, then the next ATV can simply go beside that “trail” and the next can go beside that until before we know it we have vast areas where the cumulative impacts to wetlands are severe.

We are cognizant of the need of hunters whom we represent to be able to retrieve game meat in certain areas within the PUA. We would support a six-inch rule/regulation only if it pertained to meat retrieval by hunters. DNR must encourage responsible ORV use on sensitive grounds and protect those places from abuse.

“Should” vs. “Will” in the Public Review Draft (PRD)

There are several troubling instances in the PRD where the modifier “should” is used—instead of “will”—to describe a course of action or a set of conditions DNR intends to fulfill. According to the definitions in the PRD appendices, the word “should” when used as a modifier for guidelines “states intent” but allows “the manager to use discretion” in fulfilling this intent. Whereas “a guideline followed by the word ‘will’ **must** be followed by DNR land managers....” [our emphasis]

This may seem a semantic point, but in reviewing the PRD and the statutes in the enabling legislation, it is our opinion that DNR (in many instances where the plan uses “should” instead of “will”) has neglected to uphold those statutes in this plan. There are many examples of this in the PRD that greatly concern us, and in the interest of brevity we will list only a few of those examples from the Fish and Wildlife Habitat Guidelines in Chapter 2 of the PRD:

“All trails (new and up-graded, expanded or rerouted) or facilities within the planning area **should** be sited and designed to avoid impacts to fish and wildlife and their habitats. If impacts to these habitats cannot be avoided, they **should be minimized.**”

“All trails and developed facilities **should** be sited and developed to minimize impacts to anadromous waterbodies. Stream crossings **should** be developed generally perpendicular to the stream flow.

“As new information regarding fish and wildlife populations becomes available from ADFG, DNR **should** re-evaluate the habitat in the PUA to determine if areas could be identified as sensitive habitat.”

“DNR **should** consult with ADFG to determine if uses are impacting fish, wildlife and their habitats.”

In every instance above where “should” is used (in bold), DNR has neglected its mandate to ensure that those actions and conditions are met. The enabling legislation for KRPUA mandates that DNR “protect and maintain migratory waterfowl nesting areas; habitats for moose, Dall sheep, and brown bear; and other fish and wildlife habitat so that traditional public use of fish and wildlife populations may continue.”

The only way for DNR to meet that mandate is to insert “**will**” in place of “**should**” in every example above. And to remain consistent throughout the PRD with this usage where it is necessary.

Concluding Remarks

AK BHA would like to express our sincere gratitude to Brandon McCutcheon, David Griffin, Joe Joyner, and Clark Cox, who’ve worked long and hard for DNR at formulating a KRPUA management plan and regulations.

Thank you again for the opportunity to comment on the future management plans for the Knik River Public Use Area.

Sincerely,
Mark Richards
Co-chair Alaska Backcountry Hunters and Anglers