

STATE OF ALASKA

CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

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Lt. General Steve Hoog
Commander, Alaskan Command
9480 Pease Avenue, Suite 120
Joint Base Elmendorf-Fort Richardson, Alaska 99506

Dear Lt. General Hoog:

The Citizens' Advisory Commission on Federal Areas (CACFA) has reviewed the Joint Pacific Alaska Range Complex (JPARC) Modernization and Enhancement Draft Environmental Impact Statement (DEIS).

The Citizens' Advisory Commission on Federal Areas is a 12 member organization established by the State of Alaska in 1981 and reauthorized in 2007. Alaska Statute (AS) 41.37.220 directs the Commission to "consider, research, and hold hearings on the consistency with federal law and congressional intent on management, operation, planning, development, and additions to federal management areas in the state [and] on the effect of federal regulations and federal management decisions on the people of the state."

We appreciate the opportunity to provide comments on the important proposals contained in the JPARC EIS. We also are thankful for the extension of the public comment period. ALCOM has made a notable effort to reach out to the affected communities across Alaska with its public meeting schedule and through the *ad hoc* Working Group meetings since public scoping began for the DEIS. Extending the comment period also demonstrates a commitment to the public process and to the affected public by allowing more time to review and analyze a lengthy and complicated document. Please accept the following comments.

The Commission recognizes the crucial role the military plays in defending our nation. We support the Department of Defense's mission and understand the need for training areas to ensure the readiness of our military forces. Commission members do, however, have concerns about the potential impacts from the proposed expansion of some of those training areas as well as other elements of the proposals outlined in the DEIS.

The Commission fully understand the vital role the military plays in Alaska's economy. At the same time, the civil aviation industry makes significant economic contributions to the state.

According to the Aircraft Owners and Pilots Association, the civil aviation industry in Alaska contributes approximately \$3.5 billion to the state's economy and supports an estimated 47,000 directly and indirectly related jobs.¹ In addition, civil aircraft routinely provide the most economical and feasible means of travel for Alaskans as well providing the primary method of access for utilizing many of the resources of the state. It is essential that a balance be struck between the military's operational and training needs and those of the civilian population as they are supported by the civil aviation industry.

FOX 3 MOA Expansion and New Paxon MOA

The proposed expansion of the Fox 3 Military Operations Area (MOA) and designation of a new Paxon MOA represent a significant expansion in the amount of Alaskan airspace directly affected by military training activity. Under Alternative A the amount of airspace included within MOAs in this region of the state would more than double, increasing from 3,138,000 acres (4,903 sq. miles) to 7,531,000 acres (11,767 sq. miles). Under Alternative E, MOAs would increase in size to 6,401,000 acres (10,001 sq. miles).

The Commission has heard from members of the public who are concerned that 2/3 (67%) of the lands affected by the existing MOA and the proposed expansion areas are State owned. They find it disconcerting that with 60% of the lands in Alaska federally owned, the lands most impacted by the proposals in the DEIS are state lands. Many Alaskans believe that it would be more appropriate to designate MOAs over federal lands.

The information in Table 3-12 *Land Status* should be revised to more accurately reflect actual land status in the Fox 3 MOA and the proposed Paxon MOA. The **Notes** section for Table 3-12 defines State land as including State patented, State tentatively approved and State land disposals. State land disposals are not State lands; they are lands that have been placed in private ownership. They should be included in Table 3-12 under **Private**. Under Note 4, private lands should also include Native allotments. Also, by definition, there is no such thing as "privately owned BLM land." We assume that this category would include homesites, trade and manufacturing sites, homesteads and patented federal mining claims that have been conveyed into private ownership.

The DEIS indicates that the proposed expansion of the FOX 3 MOA and designation of a new Paxon MOA have the potential for significant adverse impacts to airspace management and use, noise levels, flight safety, land management and use, recreation and socioeconomics and that management actions or mitigations are required to avoid or reduce impacts. The Commission agrees with this assessment. In addition, should the Fox 3 MOA be expanded and/or the Paxon MOA designated, we generally support the proposed mitigations outlined in Table K-2 of Appendix K.

The public has expressed significant concern with the expansion of the FOX 3 MOA and the creation of the Paxon MOA. Of even greater concern is the proposal to lower the minimum altitude restriction for military aircraft from 5,000 feet AGL to 500 feet AGL. The area that

¹ *The Economic Contribution of the Aviation Industry to Alaska's Economy – prepared by Northern Economics, Inc., Anchorage, Alaska for the Alaska Department of Transportation, January 2009*

would be included in the proposed expansion is used extensively by general aviation pilots, air taxi operators and transporters to support hunting camps and mining operations, conduct air tour operations, access recreational areas or make other uses of this region. Given its proximity to Fairbanks, Anchorage, the Mat Su Borough and the Copper River Basin, the airspace is heavily used by civilian aircraft throughout the year. Lowering the minimum altitude to 500 feet AGL greatly increases the collision potential with high-speed military aircraft engaged in training maneuvers in the Fox 3 MOA. Because of the heavy use of the proposed Fox 3 expansion area for access to the southern Alaska Range, the Denali Highway, the Nelchina Basin and the Talkeetna Mountains, and to minimize the risk of mid-air collision, expansion of the Fox MOA should be limited to no lower than 5,000 feet AGL, and to the smallest possible lateral extent to minimize the risk of mid-air collision.

The Commission is disappointed that there is no high altitude only alternative for the proposed Paxon MOA which covers Isabel Pass and portions of the Eastern Alaska Range. During scoping, there was considerable public concern about the potential negative impacts to civilian air operations from military aircraft operating as low as 500' AGL if this MOA is designated. Isabel Pass is a major Visual flight Rules (VFR) route for civilian aircraft. It links northern and interior Alaska with south central and southeastern Alaska. As with the proposed Fox 3 expansion area, this route is used extensively by civilian aircraft to access hunting and fishing areas, private cabins and homesites, mining operations and small airstrips on the southern flanks of the Alaska Range. We do note that the low altitude Paxon MOA would extend from 500 feet AGL up to but not including 14,000 feet MSL and the MOA would only be used during major flying exercises (MFE).

The DEIS (Appendix K, page K-9) proposes the following mitigation for the Fox 3 MOA and the proposed Paxon MOA is designated:

“Establish or expand existing VFR flyway corridors as necessary to provide VFR aircraft transit through areas that may be affected by high density military flight activities within/near the proposed airspace.”

While designation of specific VFR flyway corridors may be realistic in the Fox 3 MOA, the highly variable weather in the area of the proposed Paxon MOA makes designation of a single corridor unfeasible. It would also concentrate VFR traffic in an already limited area and increase the potential for a mid air collision between civilian and military aircraft. We strongly suggest that if the Paxon MOA is designated, it should be limited to high altitude use only.

The DEIS states there is a potential for adverse impacts on biological resources, public access, and subsistence, but that impacts are not expected to be significant and that management actions or mitigations may be required to avoid or reduce impacts. The Commission believes that the potential exists for significant adverse impacts to these three resources. We suggest the development of mitigation measures for inclusion in the final EIS and Record of Decision.

The DEIS acknowledges in the footnotes for Table 3-11 that while caribou are prevalent throughout the Fox 3 MOA, calving and breeding occur predominately in the proposed expansion area. The footnote for Dall sheep in Table 3-11 states that they are most prevalent

in the Fox 3 expansion area and the proposed Paxon MOA, but that no “calving” (should be lambing) is identified. Table 3-11 contains similar information that habitat, including nesting habitat, for ducks, geese and trumpeter swans is also prevalent in the proposed Fox 3 expansion area and proposed Paxon MOA. There is little additional discussion of the use of the proposed Fox 3 expansion area for caribou calving and breeding in the affected environment section of the DEIS. More information should be included in the final EIS (FEIS).

In spite of the proposal to include important caribou breeding and calving habitat, waterfowl nesting areas and other wildlife concentration areas in the proposed Fox 3 MOA extension and the proposed Paxon MOA, the DEIS (Appendix K, Page K-11) proposes only the following mitigation measure:

“Continue to monitor effects of military training, including overflights on select wildlife species (especially herd animals, waterfowl, and raptors) and fisheries during critical seasons such as breeding, young-rearing, and migration. Use knowledge to develop and implement strategies to minimize disturbance to priority wildlife in existing and new SUAs. This would help natural resources and range managers to coordinate training schedules that minimize impacts on wildlife populations.”

Because of the importance of this area and its wildlife resources for a wide range of uses and user groups, the Commission submits that simply monitoring the effects of training overflights is not sufficient to protect those resources. Previous studies and surveys have established the effects of these types of activities on biological resources.

The FEIS and ROD should include specific mitigation measures for caribou and moose during calving and post-calving periods in the existing Fox 3 MOA and for the proposed expansion area, including the proposed Paxon MOA. Based on our discussions with ADF&G biologists and others, the Commission suggests that a minimum elevation of 5,000 feet AGL be maintained from May 15 through July 15 throughout the existing Fox 3 MOA, including any expansion area. This will reduce stress on the Nelchina Caribou Herd during critical calving and post-calving period.

The DEIS lists an existing mitigation measure (Reference ID 429, Appendix K, pg. K-6) for the Delta Caribou Herd calving areas which established a minimum overflight altitude of 3,000 feet AGL from May 15 to June 15. The Commission suggests modifying the mitigation by increasing the minimum altitude to 5,000 feet AGL and extending it from May 15 to July 15.

We also suggest adoption of the same May 15 to July 15 flight restriction of 5,000 feet AGL for moose in both the Fox 3 MOA and the proposed Paxon MOA. Even though moose do not have concentrated calving areas, they are susceptible to low level, high speed aircraft overflights during calving and post calving periods.

The Commission supports the proposed mitigation for the FOX MOA and the proposed Paxon MOA to allow supersonic operations only above 5,000 feet AGL or 12,000 feet MSL, whichever is higher

Because of the high potential for adverse impacts to the resources in the MOAs, appropriate mitigation measures must be developed. In order to effectively identify, develop and implement necessary mitigation measures the Commission suggests the Alaskan Command establish a comprehensive program involving regular consultation and coordination with the Alaska Department of Fish and Game, the Alaska Department of Natural Resources, and Federal land management agencies. Consultation should also include public user groups, private property owners, and the civil aviation community. This consultation and coordination should continue through the FEIS and Record of Decision, the FAA review of the airspace proposals and the implementation of this plan as its impacts will continue to affect all parties.

Special Use Airspace Information Service

The Special Use Airspace Information Service (SUAIS) has been successful in making civilian pilots aware of planned and ongoing military aircraft activity in the JPARC airspace complex. AOPA has indicated that the SUAIS has greatly improved the situational awareness of both civil and military airspace users. However, also according to AOPA, pilots have reported that in the eastern portion of the existing complex communications are not adequate. The result has been difficulties with the mix of civil uses and military training flights.

While we understand that the SUAIS recently has been upgraded to increase radio coverage by reactivating one of the VHF radio repeaters, any further expansion of the airspace complex will only increase problems unless radio coverage, staffing and other necessary components of the SUAIS are expanded proportionally to allow civilian pilots to communicate with Range Control when MOAs are active.

The DEIS (Appendix K, page K-8) proposes the following mitigation measure:

“Pursue funding for any communications enhancements that may be needed to expand coverage within those expanded SUA areas.”

We suggest that committing only to “pursue funding” is not satisfactory. ALCOM should develop a plan to identify what is required for expansion of the SUAIS to ensure sufficient and reliable communication between civilian pilots and the military. A workable plan and funding to implement the plan should be in place before any expansion of the Fox 3 MOA or the designation of the Paxon MOA occurs.

Unmanned Aerial Vehicle Corridors

Under the proposed action in Alternative A, the DEIS proposes to establish seven FAA approved Unmanned Aerial Vehicle (UAV) corridors. Alternative B would establish the same seven UAV corridors via a Certificate of Authorization granted by the FAA. These corridors would extend from Eielson Air Force Base and Allen Army Field at Fort Wainwright to various restricted air space areas. These corridors would be located in and near the second most heavily used airspace in Alaska. The civilian aviation community has expressed

significant concerns about the designation of restricted air airspace for operation of UAVs in this area.

The Commission recommends the adoption of Alternative B as an interim measures until such time as the FAA complies with the provisions of Public Law 112-95 the *FAA Modernization and Reform Act of 2012*. Section 334, *Public Unmanned Aircraft Systems*, directs the Secretary of Transportation to issue “guidance regarding the operation of public (military and other government agency) unmanned aircraft systems to –

- (1) expedite the issuance of a certificate of authorization process;*
- (2) provide for a collaborative process with public agencies to allow for an incremental expansion of access to the national airspace system as technology matures and the necessary safety analysis and data become available, and until standards are completed and technology issues are resolved;*
- (3) facilitate the capability of public agencies to develop and use test ranges, subject to operating restrictions required by the Federal Aviation Administration, to test and operate unmanned aircraft systems; and*
- (4) provide guidance on a public entity’s responsibility when operating an unmanned aircraft without a civil airworthiness certificate issued by the Administration.*

(b) STANDARDS FOR OPERATION AND CERTIFICATION.—Not later than December 31, 2015, the Administrator shall develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system.

Alternative B, designation of UAV corridors via a certificate of authorization, would still allow ALCOM to meet its mission and training requirements until such time as the Secretary of Transportation issues the necessary guidance and any necessary regulations for operating UAVs in the national airspace system. Under the provisions of Public Law, the Secretary should have already entered into an agreement with the military to simplify the process for issuing certificates of authorization. In addition, the certificate of authorization process should provide additional opportunities for public involvement before a final decision is made on designation of these corridors.

Subsistence

The Commission is concerned about the Impact Assessment Methodology used in the DEIS to assess the level of dependence on subsistence resources by communities potentially affected by the proposed Fox 3 MOA expansion and the proposed Paxon MOA. In section 3.1.13.3, Chistochina, Dot Lake and Gulkana are listed as having a high dependency and Cantwell, Gakona, Glennallen and Paxson are considered to have a medium dependency. Chickaloon is included in Table 3-24, but is assigned no ranking. We note that the 1982 harvest and use data for Chickaloon are also incorrect.

We find no basis for making different high dependency - medium dependency rankings for these communities when all pertinent factors are considered. All of these communities are on

the road system and have similar access to alternative resources. In addition, for the eight communities listed in Table 3-24, an average of 97.25% of households participated in subsistence, with no community having less than 92.7% participation. For the seven communities for which information was available, residents harvested an average of 158 pounds of subsistence resources per capita. Harvest for Paxson, which is ranked as having a medium dependence, harvested 289 pounds per capita. This is more than the amount of per capita harvest for Dot Lake (115 pounds) and Gulkana (152 pounds). However, both of those communities were ranked by the DEIS as having a high dependence on subsistence.

A more realistic assessment of the subsistence harvest data for these communities would indicate that all of them have a high dependence on subsistence. As we did in our scoping comments, we point out that the preference for subsistence uses on Federal public lands in Alaska is provided to all rural residents, both Native and non-Native, under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). Congress made that finding very clear in Section 801(4):

“in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents;”

Ranking a community's dependency on subsistence resources on the basis of the percentage of Native or non-Native residents is inconsistent with both ANILCA Title VIII, as well as federal and state regulations. While it may be appropriate to rank an affected community's dependency, other criteria should be used. We suggest that the discussion in Section 3.1.13 and any discussion of statutory or regulatory provisions in Section B.13.2 be revised accordingly.

To avoid significant adverse impacts to hunting activities regulated under the State of Alaska's general hunting regulations in the Fox 3 MOA (existing and proposed expansion area) and the proposed Paxson MOA, we recommend that no major flying exercises be conducted in these areas from August 10 to September 30 and October 21 to November 31. This will prevent disruption of big game hunting in these areas during the peak seasons.

Fox 2 MOA and Eielson MOA

These areas are used extensively by moose hunters during the fall and winter. The fall hunt extends from August 15 to September 25, with most use occurring between September 1 and September 15. Winter hunting usually falls within two timeframes, November 15 to December 15 and January 15 to February 28. As a mitigating measure, the Commission recommends no major fly exercises during the fall and winter hunting periods and no flights below 5000 feet AGL.

Realistic Live Ordnance Delivery Area

July 9, 2012

The Commission is concerned about this proposal which would affect 163,230 acres of State owned land under Alternative A and 234,600 acres of State owned land under Alternative B. As the DEIS points out, this area is located within State Game Management Unit (GMU) 20A and is extensively used for moose hunting, with over 4,000 moose permits issued annually. More than 1,100 moose were harvested from GMU 20 A over the last several years. Also harvested are brown bear, black bear, and Dall sheep. Trapping also occurs throughout the entire area. More importantly, this is a priority use area by residents from the Fairbanks area. Any reduction in use would have significant impacts on area hunters and trappers. Should this proposal be adopted under either alternative, specific mitigation measures must be developed in consultation with the Alaska Department of Natural Resources and the Alaska Department of Fish and Game.

In addition, because this proposal would require action by the Alaska Department of Natural Resources to reclassify this area, the Commission will submit to the department any recommendations it may determine appropriate and to be within the scope of its responsibilities.

We again appreciate the opportunity to comment on this project. Please maintain our contact information for future notifications, and contact our office if there are questions about our comments. Thank you.

Sincerely,



Stan Leaphart
Executive Director

Cc: Governor Sean Parnell
Commissioner Dan Sullivan – ADNR
Commissioner Cora Campbell – ADF&G