DOYON
Limited®

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Submitted electronically via http://www.regulations.gov

Re: National Park Service Rights of Way; Proposed Rule, RIN (1024–AE75)

Thank you for providing Doyon, Limited ("Doyon") the opportunity to submit the following comments on the proposed rule to revise regulations governing the application, processing, and issuance of right-of-way ("ROW") authorizations for lands and waters administered by the National Park Service ("NPS"), published in the Federal Register on June 10, 2024. *Rights of Way*, 89 Fed. Reg. 48850 (June 10, 2024) ("Proposed Rule"). This rulemaking has significant economic and historic and cultural importance to Doyon and its shareholders, as it raises important questions relating to the implementation of the Alaska National Interest Lands Conservation Act of 1980 ("ANILCA") and the realization of the economic development opportunities that Congress contemplated would be open to Doyon and other Alaska Native Corporations ("ANCs") as a fundamental element of the settlement of aboriginal land claims set forth in the Alaska Native Claims Settlement Act ("ANCSA"). Effective implementation of these provisions is critical to the economic and historical and cultural interests of Doyon and its shareholders.

I. Introduction

Doyon is one of the twelve land-owning Native regional corporations established by Congress under the terms of ANCSA. Headquartered in Fairbanks, Doyon has more than 20,000 Alaska Native shareholders. Doyon is the largest private landowner in Alaska, with a land entitlement under ANCSA of more than 12.5 million acres. Doyon's lands extend from the Brooks Range in the north to the Alaska Range in the south. The Alaska-Canada border forms the eastern border, and the western portion almost reaches the Bering Sea.

Doyon's mission is to continually enhance its position as a financially strong Native corporation in order to promote the economic and social well-being of its shareholders and future shareholders, to strengthen its Native way of life, and to protect and enhance its land and resources. In furtherance of this mission, Doyon currently is pursuing several minerals and oil and gas exploration projects in Interior Alaska. If successful, these projects will provide substantial benefits to Doyon and its shareholders, and, by providing new

employment opportunities and helping alleviate the energy crisis in Interior Alaska, to all Alaskans.

The use and development of lands and resources in Alaska is subject to a unique statutory regime established under ANCSA and ANILCA. This regime is complex, interrelated, and designed to fulfill economic and environmental purposes of both of these Acts.

Many large tracts of lands that were conveyed to Doyon, as well as other ANCs, from the United States under ANCSA are surrounded by lands administered by NPS and other CSUs. Doyon selected these lands, and was conveyed some of these lands, before the December 2, 1980, enactment of ANILCA, which established or expanded these federal land areas. Much of this land that Doyon selected was selected for its economic development potential, consistent with ANCSA's intent. As the U.S. Court of Appeals for the Ninth Circuit has stated, "we have no doubt that Congress intended . . . that those Native corporations that did select land for its economic potential would be able to develop that land and to realize that potential." *Koniag, Inc. vs. Koncor Forest Resource Management Company et al.,* 39 F.3d 991 (9th Cir. 1994).

Doyon has particularly significant interests in Denali National Park & Preserve based upon our historical and traditional use of the area, long predating the establishment of the Park. Today, Doyon owns more than 24,000 acres of land within the exterior boundaries of the Park. On a portion of these lands, Doyon—through its wholly owned subsidiary Doyon Tourism, Inc.—owns and operates the Kantishna Roadhouse, a full-service backcountry lodge offering an all-inclusive package including first-rate accommodations, full meal service, and activities including interpretive hiking and other interpretive programs, fishing, gold-panning, and dog sled demonstrations. Doyon is dependent upon having reasonable access through the Park to access these lands—access that has been challenged significantly by the closure of the Denali Park Road due to the failure of the road and ongoing bridge construction at Pretty Rocks. As the owner of real property interests within the boundaries of the Park, Doyon has a substantial interest in ensuring the access rights guaranteed to it and other inholders under applicable law.

In addition, as part of the ANCSA settlement, Doyon selected certain lands in the vicinity of Wiseman for their mineral development potential. This includes certain lands west of Wiseman that are entirely within the exterior boundaries of Gates of the Arctic National Park & Preserve and—in the very southeast corner—public lands managed by the Bureau of Land Management ("BLM").

As a result of the location of Doyon's lands and the location of resource exploration and development activity on those lands, Doyon anticipates that it ultimately will need to obtain access across certain CSUs, including potentially lands administered by NPS, pursuant to Title XI of ANILCA. Doyon generally supports Federal agency efforts to streamline and improve ROW and other permitting processes, which we understand—at least in part—to be the intent of this rulemaking. However, as they pursue these efforts, it is critical that agencies are careful to avoid taking actions that could, even inadvertently, complicate access to and use of Doyon lands, and potentially prevent Doyon from fully realizing the economic

and other benefits that Congress intended it would enjoy as a result of ANCSA's settlement of aboriginal land claims.

The NPS's regulatory activities relating to ROWs also could impact efforts to connect rural communities in Alaska. Federal agency policies and decisions relating to ROWs and other access have important potential implications with regard to the use of lands for remote Alaska communities' transportation, energy, and communication needs, including broadband infrastructure deployment.

Reliable access to and availability of broadband services and internet connectivity is a fundamental necessity today for community safety and health, economic security, and growth, as well as for ensuring that students have the education necessary for future success. Broadband access and internet connectivity are critically important for a wide range of purposes—everything from work, to education, to telehealth, to cultural gatherings, to shopping, to maintaining contact with friends and family.

Disparities in connectivity and the digital divide in rural communities have become more apparent, including within the Doyon region. The remoteness of our Alaska Native villages means that internet access has been restricted to high latency, low data satellite and to capacity constrained and costly microwave service. Broadband availability has been limited to a few locations in each community, such as health clinics, schools, Tribal and government agency offices. Broadband is simply unaffordable for household consumers, and yet affordability is a critical element of internet access and a necessary condition for economic development. The Alaska Native communities in the Doyon Region must be able to connect to our global communications infrastructure in an immediate and affordable way. Doyon and others, with the support of grants from the National Telecommunications and Information Administration, have been working hard to expand broadband to communities in our region. However, much more remains to be done to address the current digital divide, and it is essential that land management agencies like NPS establish policies and act in a manner that facilitates these efforts, rather than creates obstacles to them.

As it proceeds with this rulemaking process, NPS should ensure that its efforts to modernize its ROW permitting process advance, and in no way hinder, these important objectives, which are critically important to energizing commerce, improving public safety, and enriching lives for Alaska Natives and their communities.

II. Comments

A. The Final Plan Must be Consistent with ANILCA's Unique and Specific Provisions Governing Access to Lands and Resources in Alaska

Decisions relating to ROW permitting have important implications for adjacent landowners, potentially affecting how non-federal landowners like Doyon can access their lands, and implicating access rights under ANILCA. Such decisions also have potential implications with regard to the use of lands for remote Alaska communities' energy and communication needs, including broadband infrastructure deployment.

Access across units of the National Park System in Alaska is governed by the unique, exclusive, and specific provisions established by Congress in ANILCA. Congress enacted ANILCA to protect Alaska's natural resources and to ensure economic development opportunities for Alaska Natives and other private landowners in the State. ANILCA included unique and specific provisions to guarantee that such landowners would have reasonable access to inholdings within or effectively surrounded by one or more conservation system units ("CSUs"), national recreation areas, national conservation areas, or areas of public lands designated as wilderness study so that they could make economic and other use of their property. ANILCA defines CSU to mean "any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of [ANILCA], additions to such units, and any such unit established, designated, or expanded hereafter." 16 U.S.C. § 3102(4). Any regulations that NPS issues as a product of this rulemaking effort, including any elements of the rulemaking that could affect access to inholdings within units of the National Park System in Alaska, must be fully consistent with these provisions, and these provisions should be addressed explicitly in the final rulemaking.

1. *ANILCA sought to encourage economic development by creating a comprehensive, balanced regulatory regime to govern the use and development of lands and resources in Alaska.*

In enacting ANILCA, Congress intended that nonfederal land within conservation system units ("CSUs") in Alaska would remain available for development. In setting forth the purposes of the statute, section 101(d) of ANILCA expressly recognizes the balance struck between resource protection and development:

> This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the preservation of national conservation system units and those public lands necessary and appropriate for intensive use and disposition . . . .

16 U.S.C. § 3101(d). Congress included special provisions in the Act to assist landowners in fulfilling this important, recognized economic need.

2. *Guaranteed access to inholdings under Title XI of ANILCA.*

ANILCA includes specific, and critically important, provisions that ensure reasonable access to privately-owned lands that are within or "effectively surrounded" by "one or more conservation system units" (including units of the National Park System in Alaska). Among

these provisions, section 1110(b) of ANILCA requires the Secretary of the Interior to give the owner of any lands effectively surrounded by one or more CSUs, "such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land." 16 U.S.C. § 3170(b). That grant of rights is "subject to reasonable regulations issued by the Secretary to protect natural and other values of such lands." *Id.*

DOI has adopted multi-agency regulations governing access to inholdings under ANILCA subsection 1110(b) at 43 C.F.R. § 36.10. As the Department recognized in promulgating these regulations, the legislative history of ANILCA "clearly states that the grant of access must be broadly construed":

> The Committee understands that the common law guarantees owners of inholdings access to their land, and that rights of access might also be derived from other statutory provisions, including other provisions of this title, or from constitutional grants. This provision is intended to be an independent grant *supplementary to all other rights of access*, and shall not be construed to limit or be limited by any right of access granted by the common law, other statutory provisions, or the Constitution.

Transportation and Utility Systems in and Across, and Access Into, Conservation System Units in Alaska, 51 Fed. Reg. 31619 (Sept. 4, 1986) (quoting H. REP. NO. 97, Part 1, 96th Congress, 1st Sess., 1979, 240; also S. REP. NO. 413, 96th Congress, 1st Sess., 1979, 249).

These regulations define "adequate and feasible access" to mean "a route and method of access that is shown to be reasonably necessary and economically practicable but not necessarily the least costly alternative for achieving the use and development by the applicant on the applicant's nonfederal land or occupancy interest." 43 C.F.R. § 36.10(a)(1). Section 1110(b), including its standard providing for adequate and feasible access for economic and other purposes, was intended to ensure that inholders would not be denied the economic benefit resulting from their land ownership. S. REP. NO. 96-413, at 248-49, Nov. 14, 1979. Given that ANCSA established the ANCs as vehicles for economic development, providing for access for use of the lands conveyed under ANCSA to these entities is critical to fully realizing the settlement of aboriginal land claims achieved under that Act.

The regulations implementing Section 1110(b) of ANILCA explain that the purpose of the "access to inholdings" section of the regulations is "to ensure adequate and feasible access across areas for any person who has a valid inholding" and clarify that "[a] right-of-way permit for access to an inholding pursuant to this section is required only when this part does not provide for adequate and feasible access without a right-of-way permit." 43 C.F.R. § 36.10(b). The regulations go on to explain the limited circumstances under which an agency can deny or modify a route or means of access across a CSU proposed by an applicant. Under these regulations, the agency "shall specify in a right-of-way permit the route(s) and method(s) of access across the area(s) desired by the applicant, unless" the agency makes one of four specified determinations:

(i) The route or method of access would cause significant adverse impacts on natural or other values of the area and adequate and feasible access otherwise exists; or
(ii) The route or method of access would jeopardize public health and safety and adequate and feasible access otherwise exists; or
(iii) The route or method is inconsistent with the management plan(s) for the area or purposes for which the area was established and adequate and feasible access otherwise exists; or
(iv) The method is unnecessary to accomplish the applicant's land use objective.

43 C.F.R. § 36.10(e)(1). Thus, NPS has explained,

> As specified in the Title XI regulations (43 CFR 36.10(e)(1)), the NPS will approve the route and method of access desired by the applicant unless: 1) the requested access would result in significant impacts on natural or other values; or 2) the requested access would jeopardize health or human safety; or 3) the requested access is inconsistent with the management plan(s) for the area or purposes for which the area was established; or 4) the requested method of access is unnecessary to accomplish the applicant's land use objective. If none of these conditions exists, then the applicant is to receive a [Right-of-Way Certificate of Access] for the access as requested. However, if the NPS makes findings that any of these four conditions exists, after consultation with the applicant, the NPS must specify an alternative route(s) and/or method(s) in a [Right-of-Way Certificate of Access] that will provide the applicant with adequate and feasible access.

"An Interim User's Guide to Accessing Inholdings in National Park System Units in Alaska," at 7 (NPS, July 2007).

Accordingly, these provisions establish a presumption that favors the applicant's proposal. Unless the agency makes one of these specific determinations, ANILCA and its implementing regulations require the agency to adopt the alternative proposed by the applicant and to grant the ROW for the access as requested.

3. Temporary access under ANILCA for exploratory or similar purposes.

Section 1111 of ANILCA further directs the Secretary of the Interior to grant temporary access to a private landowner to cross CSU lands in Alaska for exploratory or similar purposes, so long as, after National Environmental Policy Act ("NEPA") compliance, the Secretary determines that such access will not result in "permanent harm" to the resources of the lands or unit. 16 U.S.C. § 3171(a). In providing such temporary access, the Secretary may include stipulations and conditions in the permit to ensure that the access granted is undertaken in a manner consistent with the purposes for which the area was established and to ensure that no permanent harm will result to the area's resources. 16 U.S.C. § 3171(b). DOI has adopted multi-agency regulations governing such temporary access under ANILCA section 1111 at 43 C.F.R. § 36.12.

4. Regulation of transportation and utility systems under ANILCA.

Finally, Title XI of ANILCA established a specific set of procedures for federal agencies to follow when processing applications for "transportation or utility systems" ("TUSs") in Alaska when any portion of the route of the system will be within a conservation system unit. 16 U.S.C. §§ 3161 – 3169. Recognizing that "the existing authorities to approve or disapprove applications for transportation and utility systems through public lands in Alaska are diverse, dissimilar, and, in some cases, absent," Congress sought to establish in ANILCA "a single comprehensive statutory authority for the approval or disapproval of applications for such systems." 16 U.S.C. § 3161.

5. Clarifying the rule to ensure consistency with ANILCA's access provisions and implementing regulations.

The Proposed Rule purports to establish the procedures for applications for ROWs and the provisions under which NPS may authorize a ROW within any National Park System unit, "whether the statutory authority is System-wide or specific to a System unit." 89 Fed. Reg. at 48850, 48851, 48861 (proposed § 14.1). The Proposed Rule nowhere discusses ANILCA Title XI's access provisions or recognizes that Alaska is different. *See Sturgeon v. Frost*, 577 U.S. 424, 438-39 (2016). In the U.S. Fish and Wildlife Service ("USFWS") rulemaking action cited in NPS's Proposed Rule, FWS–HQ–NWRS–2019–0017, USFWS—in response to comments from Doyon and others—specifically recognizes the unique statutory and regulatory framework governing use of and access to lands in Alaska. *Streamlining U.S. Fish and Wildlife Service Permitting of Rights-of-Way Across National Wildlife Refuges and Other U.S. Fish and Wildlife Service-Administered Lands*, 88 Fed. Reg. 47442, 47443, 47444, 47446 (July 24, 2023). NPS itself has done so in past rulemakings. *See, e.g., General Provisions and Non-Federal Oil and Gas Rights*, 81 Fed. Reg. 77972, 77973 (Nov. 4, 2016) (deciding to apply new NPS rule governing non-federal oil and gas "only to operations within System units outside of Alaska in part due to the applicability of "the ANILCA Title XI regulations in 43 CFR part 36"). As it moves forward with this rulemaking, NPS must undertake its own comprehensive review to ensure that any final rule governing NPS ROWs explicitly addresses and appropriately reflects the unique statutory and regulatory framework that governs land use and access in Alaska.

B. Any Final Rule Must Specifically Address NPS's Obligations to Consult With Alaska Native Corporations on the Same Basis as Indian Tribes

Any final rule to revise NPS's ROW regulations must specifically address NPS's obligations to consult with ANCs on the same basis as Indian Tribes under Executive Order 13175.

Although the Proposed Rule purports in a caption to address consultation with ANCs, "Consultation with Indian Tribes and ANCSA Corporations (Executive Order 13175 and Department Policy," nowhere in the text following that caption does NPS actually discuss consultation with ANCs. 89 Fed. Reg. at 48860. The Proposed Rule states:

> Paragraph (a)(1) of § 14.5 of the proposed rule would state that the NPS will issue a ROW permit only if the proposed operation and maintenance of infrastructure are consistent with applicable laws and policies, including statutes governing administration of the National Park System, regulations, and NPS planning documents. This evaluation will include consideration of whether issuing the ROW permit would cause a significant impact to one or more Tribes and, if so, the NPS will consult with potentially affected Tribes prior to issuing the permit under Executive Order 13175.

Id.

In Executive Order ("EO") 13175, *Consultation and Coordination with Indian Tribal Governments*, the President required federal agencies to implement an effective process to ensure meaningful and timely consultation with tribes during the development of policies or projects that may have tribal implications. Tribal consultation is intended to assure meaningful tribal participation in planning and decision-making processes for actions with the potential to affect tribal interests. While EO 13175 applies specifically to federally recognized tribal governments, pursuant to Public Law No. 108-199, as amended by Public Law No. 108-447, Congress specifically extended these obligations to ANCs, requiring the Office of Management and Budget and all Federal agencies to "consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175." Consolidated Appropriations Act, 2004, Pub. L. 108-199, Div. H § 161, 118 Stat. 3, 452 (2004), as amended by Consolidated Appropriations Act, 2005, Pub. L. 108-447, Div. H, Title V § 518, 118 Stat. 2809, 3267 (2004).

In accordance with this mandate, the Department of the Interior ("DOI") has developed the Department of the Interior Policy on Consultation with Alaska Native Claims, currently set forth at 512 DM 6, and Procedures for Consultation with Alaska Native Claims Settlement Act Corporations, currently set forth at 512 DM 7, which apply to all DOI bureaus and offices, including NPS. In its Policy, the Department purported to "recognize[] and respect[] the distinct, unique, and individual cultural traditions and values of Alaska Native peoples and the statutory relationship between ANCSA Corporations and the Federal Government." 512 DM 6.2. The Policy states that "It is the policy of the Department to recognize and fulfill its legal obligations to consult with ANCSA Corporations on the same basis as Indian Tribes under Executive Order 13175." 512 DM 6.4. Thus, the Procedures require NPS and other DOI bureaus and offices to "invite ANCSA Corporations as early as possible in the planning process to consult whenever a proposed Departmental plan or action with Departmental Action with ANCSA Corporation implications (as defined in 512 DM6.3(C)) is being considered" and provide that "[w]hen ANCSA Corporations indicate that there is substantial and direct effect of the Departmental Action with ANCSA Corporation Implications, the Department must engage in consultation." 512 DM 7.4.

NPS's own policies similarly recognize the Service's obligations with respect to ANCs: "The NPS recognizes the unique Federal relationship to Alaska Native Corporations, which are for-profit corporations established under the Alaska Native Claims Settlement Act of 1971 (ANCSA). The NPS will continue to consult with ANCSA Corporations when taking

action that might have a substantial and direct effect on an ANCSA Corporation's interests." Policy Memorandum 22-03, Fulfilling the National Park Service Trust Responsibility to Indian Tribes, Alaska Natives, and Native Hawaiians in the Stewardship of Federal Lands and Waters, p. 4.

NPS must ensure that it complies with these obligations to engage ANCs in meaningful consultation in finalizing any modifications to its ROW regulations and implementing these regulations. In this regard, to comply with NPS's obligations to consult with ANCs on the same basis as Indian Tribes, any final rule must make clear that NPS's evaluation under paragraph (a)(1) of section 14.5 will include consideration of whether issuing a ROW could cause a significant impact to one or more ANCs and, if so, that the NPS will consult with the potentially affected ANCs prior to issuing the ROW under Executive Order 13175.

C. Additional Comments

Doyon also provides the following additional comments on the Proposed Rule:

1. *"No practical alternative" requirement*

Proposed paragraph 14.5(a)(2) provides that, "Except where Federal law provides otherwise, the NPS will issue a right-of-way permit only if the applicant has demonstrated that there is no practicable alternative to locating the infrastructure within the National Park System." 89 Fed. Reg. at 48862. NPS explains that this provision "is consistent with question 13 of the SF–299 which requires applicants to explain whether alternative locations exist and, if so, why they were not chosen, and why it is necessary to occupy Federal lands." 89 Fed. Reg. at 48855. Nothing in question 13 of the SF-299, however, provides authority for the NPS to require that an applicant "demonstrate that there is no practicable alternative to location of the infrastructure within the National Park System" in order to obtain a ROW permit. *Id.* Indeed, this requirement appears to be inconsistent with Congress's grant of authority to NPS to issue ROWs. 54 U.S.C. § 100902, for instance, provides for issuance of ROWs for public utilities and power and communication facilities "on the approval of the Secretary and on a finding that the [ROW] is not incompatible with the public interest." 54 U.S.C. § 100902(a)(3), (b)(3). This standard is reflected in proposed paragraph 14.5(a)(1). If Congress had intended such a strict standard as that included in proposed paragraph 14.5(a)(2), it would have specified it in the statute. NPS should omit proposed paragraph 14.5(a)(2) from any final rule and ensure that any final rule reflects the standards Congress specified for issuance of ROWs.

2. *Co-location*

NPS proposes new provisions to encourage co-location of infrastructure in National Park System units. While Doyon appreciates the intent behind these provisions, NPS should consider whether these provisions are overbroad as proposed. The proposed regulations would define "co-location" as "the placement of infrastructure on or in authorized infrastructure owned or controlled by another or within an area authorized for use by another." 89 Fed. Reg. at 48861 (proposed section 14.2). And they would define

"infrastructure" as "public utilities and power and communications facilities, as described in 54 U.S.C. 100902, and any other equipment, facility, installation or use that the NPS may authorize under a right-of-way permit." *Id.* Proposed subsection 14.4(g) would require a ROW applicant to "design infrastructure to accommodate co-location to the greatest extent possible after consideration of potential impacts to park area resources, values, public health and safety, and visitor experience." 89 Fed. Reg. at 48862. Such a broad requirement could be interpreted to require a ROW applicant to overbuild facilities or substantially change its project design in order to accommodate hypothetical or speculative future infrastructure at significant additional cost to the applicant—with the possibility that no future request would be made for co-location, or if it is, resulting in the applicant effectively subsidizing some third party's future project. At a minimum, NPS should consider the inclusion of additional considerations in proposed section 14.4(g), such as cost, feasibility, and likelihood of future requests for co-location.

3. *Renewals*

Under proposed subsection 14.12(c), "[i]f a right-of-way permit expires prior to issuance of a renewal, the infrastructure that had been authorized under the right-of-way permit will, upon expiration, be considered in trespass . . . ." 89 Fed. Reg. at 48864. While proposed subsection 14.14(c) would allow NPS to grant an extension to "prevent expiration of the right-of-way permit when there is a reasonable delay or ongoing good faith negotiations regarding renewal of an expiring right-of-way permit," this would be limited to a "single extension of up to one year." *Id.* NPS should revise this provision to provide greater flexibility to avoid a potential situation where a ROW holder who timely seeks renewal of a ROW could nonetheless find itself in trespass due to NPS's failure or inability to renew the ROW on a timely basis.

4. *Suspension and termination*

Proposed section 14.15 would allow NPS to suspend or terminate all or any part of a ROW "[a]t any time during the term of a [ROW] permit," upon written notice to the ROW holder, "without liability or expense to the United States." 89 Fed. Reg. at 48865. While it would allow NPS to provide an opportunity "to cure the cause" prior to suspension or termination, it would not require NPS to do so. *Id.* In contrast to the NPS proposal, BLM regulations limit the circumstances under which BLM may suspend or terminate a ROW grant to the following: failure to comply with "applicable laws and regulations or any terms, conditions, or stipulations of the grant"; abandonment of the ROW; the meeting of a term or condition in the grant that requires the grant to terminate; BLM written consent to a request for relinquishment; court order; or requirement of law. 43 C.F.R. § 2807.17. Similarly, the USFWS's proposed ROW regulations state that "[t]he Regional Director may suspend or terminate all or any part of the issued permit for failure of the permit holder to comply with any or all of the terms or conditions of the permit, or for abandonment." 88 Fed. Reg. at 47449. Thus, while the BLM regulations and proposed USFWS regulations would require cause in order for the agency to suspend or terminate a ROW permit, the proposed NPS regulations would allow suspension or termination without cause, apparently for any reason (or no reason) whatsoever. NPS should revise its proposed provisions governing suspension

and termination for consistency with its sister agencies' regulations and to provide greater certainty—both greater certainty for ROW holders that they can rely on the agency's land use authorization when they make important and potentially costly decisions relating to infrastructure and other investments, and greater certainty for the communities, businesses, and individuals that depend upon this infrastructure.

III. Conclusion

Doyon urges NPS, as it proceeds with developing any final rule as part of this rulemaking effort, to be mindful of the economic and cultural importance to Doyon and its shareholders of having reasonable access across NPS-managed lands to Doyon lands in the area. Any final rule should facilitate, and not in any way—even if inadvertently—hinder Doyon's ability to access or use its land. Similarly, any final rule should further, and not in any way impede, efforts to connect rural communities in Alaska through deployment of electric, communications, or other important infrastructure.

NPS must ensure that any final rule is fully consistent with its obligations under ANILCA and that it ensures that Doyon will, throughout the duration of the plan, enjoy reasonable access over NPS lands to make economic and other use of its inholdings. Accordingly, any final rule should appropriately address Doyon's and other inholders' rights to access pursuant to Title XI of ANILCA as well as Title XI's other access provisions.

Consistent with its goal to improve the ROW permitting process, it should provide clarity and certainty for those who own inholdings within National Park System unit in Alaska and who require access across NPS-managed lands in order to access those inholdings, as well as for ROW permit holders more broadly.

Thank you for your consideration of these comments.

Sincerely,

Sarah E. Obed

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Doyon, Limited