

***Southeast Alaska
Subsistence Regional
Advisory Council***

**Don Hernandez, Chairman
c/o Office of Subsistence Management
1011 E. Tudor Rd., MS 121
Anchorage, AK 99503-6199**

RAC/SE 19005.DP

MAR 05 2019

Alaska Roadless Rule
USDA Forest Service, Alaska Region
Ecosystem Planning and Budget Staff
P.O. Box 21628
Juneau, AK 99802-1628

USDA - USFS Regional Office
ATTN: Regional Forester, Dave Schmid
P.O. Box 21628
Juneau, AK 99801-1807

USDA - USFS Tongass National Forest
ATTN: Forest Supervisor, Earl Stewart
648 Mission Street
Ketchikan, AK 99901-6591

RE: Subsistence Regional Advisory Council comments on Roadless Rulemaking

Dear Mr. Schmid, Mr. Stewart, and Roadless Rulemaking Team:

I am writing on behalf of the Southeast Alaska Subsistence Regional Advisory Council (Council) to express our concern for the impacts that the proposed Alaska roadless rulemaking (Proposed Rule) may have on subsistence uses throughout the Tongass National Forest. The Council has valuable, relevant knowledge on this issue and wishes to provide input on potential significant restrictions of subsistence uses that may result from the Proposed Rule.

The Council was formed under Title VIII of the Alaska National Interests Lands Conservation Act (ANILCA) and chartered under the Federal Advisory Committee Act (FACA). The Council's charter establishes its authority to initiate, review and evaluate regulations, policies, management plans, and other matters related to subsistence within the Southeast Alaska region (ANILCA §805). The Council provides a forum for the expression of opinions and recommendations regarding any matter related to the subsistence uses of fish and wildlife within the region.

Public Comment Periods are Hindering Council Substantive and Timely Input

The scoping public comment period for the Proposed Rule closed the day before the Council's publicly-noticed meeting in Sitka on October 16-18, 2018. No extensions to the public comment period were granted and the Council did not have an opportunity to provide public comment as a FACA committee. This is important to note as the Council may only submit public comments that are developed on the record at a publicly-noticed meeting.

It is the Council's understanding that the next public comment period will likely occur in the summer of 2019. This comment period falls between the winter and fall meetings of the Council. Unless the Council is authorized to call an out-of-cycle meeting, the Council will be deprived of the opportunity to receive information on the proposed alternatives, ask questions and deliberate on the information, and develop comments on impacts to subsistence resources. This hindering of the Council's ability to participate is a direct result of the agency's unusually-accelerated review under the National Environmental Policy Act.

ANILCA §805 Provides For Local & Regional Participation

Congress, through enacting Section 805 of ANILCA, has recognized that this Council has specialized knowledge and should have a meaningful role in providing input on any significant restrictions of subsistence uses, as well as providing information to minimize adverse impacts on subsistence uses and resources. As a FACA committee, the Council is obligated to conduct its activities in public in order to develop important comments on subsistence issues.

Since the national 2001 Roadless Rule was adopted, the Federal Subsistence Management Program and this Council have learned much more about subsistence. At its bi-annual meetings, the Council provides a public forum for discussion and recommendations for subsistence fish and wildlife management in the region. Through the years, the Council has heard scientific evidence from various sources regarding the impacts of timber harvests, the building of roads, and development on natural food resources in the Southeast. The Council has received testimony from subsistence users, conveying local and traditional ecological knowledge. Combined with the knowledge and awareness of the Council members themselves, who were appointed by the Secretaries of the Interior and Agriculture due to their regional expertise on fish and wildlife resources and subsistence, this Council is equipped with a wealth of information for the region that needs to be included in the analysis conducted on this matter for the Draft Environmental Impact Statement (DEIS).

Initial Comments

With the understanding of the unique role this Council has in providing a voice for subsistence uses and resources, the Council submits these comments for consideration. Initial comments are based on years of testimony and discussion concerning development and its impact on subsistence resources:

1. For any areas where the use of public lands are proposed for change, special effort should be made to determine in which tribal and clan territories these lands lay. At a bare minimum, analysis should show the clan and tribal territories in the inventoried roadless areas. Since 2001, there has been substantial growth of community and tribal expertise on land use matters and these tribes and communities should be involved in the development of alternatives for the Proposed Rule.
2. There is a perception that the Governor's Citizen Advisory Committee is developing alternatives for the Proposed Rule. The Council is concerned that this input may be the main force in presenting alternatives and it questions the legal and scientific validity of any alternatives developed by citizen advisory councils that may be primarily concerned about economic interests at the expense of scientific research and facts. The Council is not aware of any legal authority that would provide this State advisory committee the ability to drive alternatives for this Federal action.
3. Due to the accelerated timeline of this rulemaking process, the Council's ability to provide comments may be severely limited. Comment periods are expected to occur in summertime, when most Council members are engaging in subsistence activities and not available to meet. As a rule summertime in Southeast Alaska is not a convenient time for conducting public hearing or requesting public comments from rural subsistence users.
4. The Council has specific comments on potential impacts on subsistence resources, based on anticipated potential development as a result of an "Alaska Roadless Rule." Our concerns are identified as follows:
 - a. **Old-Growth Forest Protection.** The current Rule protects some of the last old-growth temperate rainforests in the entire United States. The Proposed Rule attempts to alter this successful conservation policy on an expedited timeline. There is no need to develop a state-specific roadless rule focused on the Tongass National Forest or to provide different management designations to further Alaska's economic development or other needs.
 - b. **Development.** Over the years, this Council has heard testimony from land management personnel who have shared their research and reports regarding timber harvest and development and the associated impacts on habitat and abundance of subsistence resources. These known effects adversely affect the success of subsistence users and impact subsistence resources.

- c. **Road Development.** Prince of Wales Island (POW) is the most heavily-roaded island in the region. This has produced several negative impacts to subsistence resources related to access, development, and timber harvest. Subsistence users have shared their local and traditional ecological knowledge with the Council. The Council is also knowledgeable about pre-development habitat and resource with abundance. The Council should be afforded the opportunity to provide this specific information for consideration in any alternatives developed for the Proposed Rule.
- d. **Logging.** Over a million acres have been logged on Prince of Wales Island. Residents are worried about deer habitat, particularly winter habitat, which requires old-growth timber. Many areas are already logged and the high timber harvest rate significantly impacts habitat for deer and other wildlife. There has been a decline in the amount of deer on Prince of Wales Island. This is expected to continue for years to come.
- e. **Ecosystem.** Healthy old-growth forests are vital to salmon spawning streams. They are also more effective at absorbing carbon dioxide than a forest that has been clear cut. There is a great amount of community interest throughout the Southeast concerning the future of the Tongass National Forest, especially regarding the effects of access and development on the overall forest ecosystem.
- f. **Access.** Changes to the Proposed Rule, which alter the boundaries or areas of available public land, will directly affect the area available for subsistence uses. If the amount of public land available for subsistence opportunity is effectively decreased, subsistence users may be required to travel farther to hunt, fish, and forage. This would have a Tongass-wide impact and could create user conflicts and displacement of user groups for access to subsistence resources.

Request for Information at the Council's Next Meeting

The Council requests a briefing on the Proposed Rule at its next meeting in Wrangell on March 19-21, 2019. Specifically, the Council requests information on alternatives identified and anticipated impacts, as well as the preferred alternative so that members may deliberate and offer specific comments. This would negate the need, time, and expense for a special Council meeting to be called in summer activities while most Council members are fishing and engaging in other subsistence activities.

Conclusion

The change in the current Roadless Rule will invariably affect the availability of subsistence resources and continued subsistence opportunity. Reasonable steps must be taken to minimize adverse impacts upon subsistence uses and resources resulting from the Proposed Rule. The

Council appreciates the opportunity to convey its concerns regarding the effect this rule may have on the food resources that many of our Southeast Alaska families depend upon. If you have any questions regarding this letter, they can be addressed through our Council Coordinator, DeAnna Perry, at 907-586-7918 or dlperry@usda.gov.

Sincerely,



Donald Hernandez
Chair

cc: Ken Tu, Interdisciplinary Team Leader, Alaska Roadless Rule, USDA Forest Service
Federal Subsistence Board
Southeast Alaska Subsistence Regional Advisory Council
Thomas Doolittle, Acting Assistant Regional Director, Office of Subsistence Management
Jennifer Hardin, PhD, Subsistence Policy Coordinator, Office of Subsistence Management
George Pappas, State Subsistence Liaison, Office of Subsistence Management
Katya Wessels, Acting Council Coordination Division Supervisor,
Office of Subsistence Management
DeAnna Perry, Subsistence Council Coordinator, Office of Subsistence Management
Thomas Whitford, Regional Subsistence Program Leader, U.S. Forest Service
Ben Mulligan, Deputy Commissioner, Alaska Department of Fish and Game
Mark Burch, Special Projects Coordinator, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record



File Code: 1900
Date: April 12, 2019

Mr. Don Hernandez
Chairman
c/o Office of Subsistence Management
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Anchorage, AK 99503-6199

Received 4/16/19 - ETO

Dear Mr. Hernandez:

Thank you for your March 5, 2019 letter offering comments on the Alaska roadless rulemaking effort. I appreciate the time you took to express your concerns, and I assure you that your comments will be carefully considered as the Roadless Rulemaking Team continues its work on the analysis for the Draft Environmental Impact Statement (DEIS) and the development of the Proposed Alaska Roadless Rule.

I acknowledge your concerns about the timing of the comment period for the DEIS and the public meetings and subsistence hearings that will be held during that time. I recognize that rural subsistence users are often engaged in work and subsistence activities in the summer months and am committed to doing all I can to ensure that they have the opportunity to be informed about and submit comments on the proposed rule. At this time, we expect to release the DEIS and proposed rule and begin the 60-day comment period in summer 2019. The Rulemaking Team will be scheduling meetings in various locations throughout the Tongass National Forest as soon as they have a firmer date for the release of the DEIS and will notify the Council, communities, and Tribes immediately after these meetings are scheduled in the hopes that this early notification will allow for participation by interested individuals and entities. I will also be extending an offer for consultation to all Southeast Alaska Tribes and Alaska Native Corporations in advance of the release of the DEIS, although consultation is ongoing and available at any time upon request, as are roadless presentations/information sharing to communities and other entities. I am committed to continuous and meaningful engagements and consultations with Tribal governments throughout this process.


I would like to specifically address two concerns raised in your March 5, 2019 letter. First, you indicated that Alaska Tribes and communities should be involved in the identification of tribal and clan territories in inventoried roadless areas. On July 30, 2018, all Alaska Tribes in Southeast Alaska were extended the offer to become a cooperating agency in the Alaska roadless rulemaking process; six tribes accepted this offer, each signing a Memorandum of Understanding (MOU) with the Forest Service and being actively involved in the review of the preliminary DEIS and proposed rule. Suggestions and dialogue about accurate traditional territories were offered by more than one tribal entity during this process, and the Rulemaking Team is working through the review process with those considerations in mind.



Second, I would like to address your concerns regarding the State of Alaska's Citizen's Advisory Committee (CAC). The August 2, 2018 MOU between the State of Alaska and the Forest Service outlines how the State and the Forest Service intended to work together during this rulemaking process. As indicated in that MOU, the State of Alaska formed the CAC to inform their input to the Forest Service. This CAC was established via an administrative order issued by then-Governor Bill Walker, and the process to convene and manage the CAC was solely at the discretion of the State of Alaska. Any specific comments or questions regarding the State's CAC should be directed to Chris Maisch, Alaska State Forester, at Chris.Maisch@alaska.gov or (907) 451-2660.

Again, I would like to thank you for your thoughtful comments on the Alaska roadless rulemaking and analysis process. I will update you with information on the timing and locations for the public meetings and subsistence hearings that will be scheduled later this summer. I look forward to continued dialogue as we all work together to develop an Alaska roadless rule that responds to the needs of all Southeast Alaska residents.

Sincerely,



DAVID E. SCHMID
Regional Forester

cc: Chad VanOrmer

Dear Council members,

I want to inform you about an exchange that I had with the Regional Forester, Dave Schmid, while I was at the Board meeting in Anchorage. That exchange was in regards to the Councils request that ANILCA 810 hearings be held as part of the Environmental Impact Statement for the proposed Alaska Specific Road-less rule process, and Mr. Schmid's response to our letter to him sent in March.

In Mr. Schmid's response letter, which was given to me at the Board meeting, and which you should now have, he stated that public meetings would be held after the release of the draft EIS. I was given the opportunity by Chairman Christiansen to ask Mr. Schmid on the record, to clarify for us if those meetings would include 810 hearings, and would those hearings be used to make a subsistence finding for the final EIS. He stated in the affirmative to both questions.

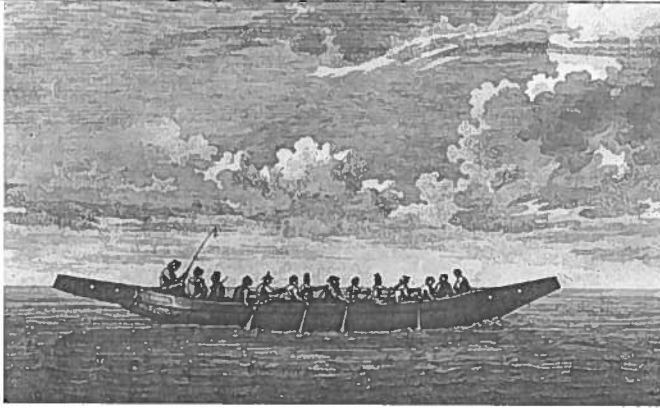
In a private conversation after that on the record statement, he backpedaled some and stated that actually the Secretary is making all decisions on the Road-less process, and couldn't guarantee there would be 810 hearings.

I thought the rest of the Council should be aware of this exchange as we are going to be drafting another letter expressing our concerns about the Road-less process.

Also I would like to let you know that I was told by Forest Supervisor Earl Stewart that he passed our previous letter that we had wished to go to the Secretary on to the Chief of the Forest Service, as high on the chain of command as he could go. I thanked him for that, but I do not know if the Secretary has received that letter.

I thought you all might appreciate this information. Hope you are enjoying the spring weather.

Don



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RAC/SE 19023.DP

JUL 10 2019

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Alaska Roadless Rule
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Dear Messrs. Schmid, Stewart and VanOrmer:

The Southeast Alaska Subsistence Regional Advisory Council (Council) would like to thank you for the USDA – Forest Service (Forest Service) Regional Forester's response letter of April 16, 2019, and appreciates the opportunity to continue the conversation regarding the proposed Roadless Area Conservation Rule; National Forest System in Alaska (Roadless Rule) and its potential impacts on subsistence resources in this region.

In the Alaska National Interest Lands Conservation Act (ANILCA), Congress recognized that Subsistence Regional Advisory Councils have specialized knowledge about subsistence uses in their respective regions and should have a meaningful role in providing input on any significant restrictions to these uses. For several years, the Council has reviewed numerous resource management actions and received significant and relevant statements from the public on how

these actions may impact subsistence resources critical to those users. Since its inception, this Council has regularly tracked Forest Service land use action plans and has weighed in on actions that could have significantly restricted subsistence uses. The major legal protection for subsistence uses of fish and wildlife on Federal public lands and waters in Alaska is provided through ANILCA Section 810. Essentially, this section of ANILCA requires Federal agencies to examine the effects of possible land use actions on subsistence uses. To do this, Federal agencies are mandated by law to provide adequate data documenting subsistence uses and possible effects on those uses.

As you are aware, information regarding the Alaska Roadless Rulemaking process was presented to the Council at its last two public meetings. We received reports from the Forest Service, as well as heard public and Council member testimony concerning the Forest Service's intention to revise the very successful and well-received Roadless Rule. We would like to supplement our initial comments made to you via correspondence dated March 5, 2019, by sharing further details. The Council is compelled to contribute this information in an effort to "work together to develop an Alaska Roadless Rule that responds to the needs of all Southeast Alaska residents," a view that has been shared in the past by the Regional Forester.

Due to the importance of wild resources for subsistence uses on the Tongass National Forest, the experience of Council members in forest management issues, the drastic cumulative effects to subsistence uses of past Forest Service road building and resource extraction, and the public comments received at our public meetings, our comments and recommendations on this issue are necessarily lengthy.

This Council strongly opposes changes to the existing Roadless Rule that has successfully provided protection for subsistence uses. The existing Roadless Rule has also limited further degradation and diminution of the Tongass National Forest resources upon which subsistence users in Southeast Alaska depend. Changes to the existing Rule are not needed and will invariably affect the availability of subsistence resources and continued subsistence opportunities.

Our detailed comments follow:

1. **Federal Advisory Committee Act (FACA) concerns.** The Council understands that the Forest Service entered into a cooperative agreement with the State of Alaska (State). The State convened a public body, the Alaska Roadless Rule Citizen Advisory Committee (Committee), to provide recommendations for state-specific roadless rule that will determine roadless areas essential for infrastructure, timber, energy, mining, access and transportation to further Alaska's economic development. The Committee's work was facilitated by Meridian Institute which is headquartered in Washington D.C. The Committee submitted a report outlining four potential options, including a range of potential changes to inventories of roadless areas in the Tongass National Forest. These options were passed on to the state cooperating agency team to provide as input to the Forest Service rulemaking process. In the Council's opinion, the advisory Committee is doing exactly that: advising the Federal government and suggesting action alternatives. The Committee reports produced for this effort lacked subsistence (or environmental) information and appeared to represent the

remnant timber industry rather than a representative cross section of Southeast Alaska residents and communities. The Council believes that FACA may require that a group formed to advise the Federal government be a chartered committee with a designated Federal official, fulfilling the notice and reporting requirements of the law.

2. Rulemaking development. The Council notes that proposed revisions to the successful Roadless Rule were contracted out and appear to involve only two professional Forest Service staff from the Tongass National Forest. We also note that decision-making authority was taken from the region, instead handled by the Secretary of Agriculture and fast tracked, requiring staff to work on this project during the December 2018 Federal government shutdown. The timing of the release of the Draft Environmental Impact Statement and short comment period does not accommodate significant public input. These actions give the impression that significant changes in the existing Roadless Rule are being steamrolled over the concerns, interests, and desires of a large number of Southeast Alaska residents.

3. ANILCA Section 810 determinations. In March 2019, Alaska Roadless Public Engagement Coordinator Nicole Grewe stated in her testimony before the Council that the Forest Service does not believe that ANILCA Section 810 requirements apply to the rule-making process regarding this major land use action. We unequivocally disagree with this opinion.

In ANILCA Section 810, the law provides for the assessment of impacts to subsistence uses from Federal agency actions. The Federal government does not have a free hand to degrade or diminish subsistence resources, which could make subsistence harvesting difficult or impossible.

ANILCA Section 810 outlines states the following requirements:

- a. In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservations, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—
 - (1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 805;
 - (2) gives notice of, and holds, a hearing in the vicinity of the area involved; and
 - (3) determines that – (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to

accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

b. If the Secretary is required to prepare an environmental impact statement pursuant to section 102(2)(C) of the *National Environmental Policy Act*, he shall provide the notice and hearing and include the findings required by subsection (a) as part of such environmental impact statement.

c. Nothing herein shall be construed to prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the *Alaska Statehood Act* or the *Alaska Native Claims Settlement Act*.

d. After compliance with the procedural requirements of this section and other applicable law, the head of the appropriate Federal agency may manage or dispose of public lands under his primary jurisdiction for any of those uses or purposes authorized by this Act or other law.

The Council believes that the Roadless Rule revision is exactly the sort of land use action that is covered by Section 810, since subsistence resources and uses are likely to be adversely affected as a result of all alternatives that call for more road building and timber harvest in the Tongass. The Council would like to see the following:

a. Decision documents must include adequate data on subsistence uses and likely future impacts on subsistence uses. Data and analysis must include evaluation of cumulative effects of past timber harvest.

b. If data and analysis show that a proposed land use decision may significantly restrict subsistence uses, a determination to this effect is made by the Federal agency. This determination needs to spell out likely/expected effects. If there is a positive 'Section 810 determination,' the Federal agency must hold hearings.

c. Formal Section 810 hearings are required in potentially affected communities. Hearings are different from public informational meetings. These typically have a hearing officer, may produce a transcript or recordings of hearings, and a hearing summary or record.

d. After hearings the decision maker may cancel the proposed action, if it is detrimental to subsistence uses. The decision maker could proceed with an action that impacts subsistence uses. In the second case, the decision maker must show that **such a significant restriction of subsistence uses is necessary and consistent with sound management principles for the utilization of the public lands** (and other conditions in the law). In this Council's view, trying to resuscitate the Southeast's moribund timber industry is not "necessary."

The Council believes this process would best serve the Section 810 analysis/evaluation requirement by analyzing the potential and significant direct, indirect, and cumulative impacts to subsistence uses. Specifically, if access is expanded in the proposed Roadless Rule alternatives, the Council would like to see the following addressed:

Direct impacts: rural residents subsist on deer and it is the most important subsistence species in this region;

Indirect impacts: previous clear-cut areas harvested at unsustainable rates have had a significant impact on deer productivity; and

Cumulative impacts: deer winter habitat need further analysis and evaluation. A Section 810 analysis would help supply this needed baseline information

ANILCA Section 810 was subject to litigation in the 1980s and beyond. The Council expects that there will be further litigation, particularly as tribes move to protect clan and Kwaan territory and to maintain the fish and wildlife resources members need for subsistence.

The alternative chosen in the new Roadless Rule may reduce or eliminate the use of some Federal public lands currently covered under the existing 2001 Roadless Rule for the purposes of subsistence. All action alternatives hold the potential for development, logging, and other permitted uses of the original Roadless Rule on Federal public lands. Lastly, if the proposed Rule alters the boundaries of the roadless areas in any way, this would constitute a disposition of public lands because it would remove those lands from the Tongass National Forest Federal public lands subject to the Federal subsistence priority provided in ANILCA. The Council believes that the increased restrictions of subsistence uses caused by this proposed Roadless Rule are not necessary and are not consistent with sound management principles for the utilization of Federal public lands.

4. Carbon sequestration, carbon credit economics, Tongass carbon inventory. The Tongass National Forest may not be suitable for further logging, but the forest is a national treasure for carbon sequestration. The earth is warming partly because of the increase in carbon dioxide and other greenhouse gases from human use of fossil fuels, deforestation, animal husbandry, and use of other finite natural resources by Earth's 7.7 billion people.

As the nation's largest national forest, the Tongass is also the nation's largest carbon reservoir. The forest has the capability, particularly as extensive clear cut areas reforest, to hold even more carbon. It is in the national interest to maintain and enhance the Tongass National Forest for sequestering of atmospheric carbon. Limiting or eliminating further carbon releases from the Tongass through defoliation and removal of biomass should be encouraged.

Interestingly enough, recent sales of carbon credits by Sealaska and Kootsnoowoo Corporations, as well as other carbon trading opportunities, provide data to estimate the economic value of the carbon currently sequestered in the forest. Furthermore, examining the effects of the proposed Roadless Rule revisions on carbon sequestration could provide an economic metric for possible changes in economic worth of the Tongass National Forest.

An essential part of evaluating carbon sequestration, its value, and importance in mitigating climate change is to establish a carbon inventory for the Tongass National Forest. Such an inventory would include an estimate of carbon sequestered before the advent of industrial

logging, a current inventory of carbon sequestered, and best estimates of the effects on carbon carrying capacity of proposed alternatives. The Council considers carbon carrying capacity to be a key value of the Tongass National Forest.

The Forest Plan needs to evolve with the reality of carbon sequestration and the economic value it can provide the Tongass National Forest. Carbon sequestration makes much more economic sense and allows for the continued harvest of fish and wildlife for nonwasteful subsistence uses, which pursuant to Section 804 of ANILCA is the priority consumptive use on Federal public lands in Alaska.

The National Environmental Policy Act (NEPA) requires a complete analysis of potential impacts and we believe that carbon sequestration, carbon credit economics, and a Tongass carbon inventory must be part of analysis for this proposed change.

5. Foreseeable climate emergency. The International Panel on Climate Change (IPCC) released its 6th assessment on October. 8, 2018. The United States released its Fourth National Climate Assessment (NCA) on November 23, 2018. Both reports document existing global warming and identify future effects of high global temperatures on world ecosystems. The NCA includes breakout information for Alaska.

The proposed Roadless Rule and Environmental Impact Statement should include analysis and discussion of what rapid climate change means for the Tongass National Forest. This analysis and discussion should consider local effects including: increased forest fire likelihood, rainfall changes that could limit salmon productivity, changes in vegetation patterns, diminished snow cover, increased weather extremes and variability, and possible massive tree blow down events from severe storms. In addition, the IPCC report calls for a 50 percent reduction in emission of greenhouse gases by about 2030, total elimination by 2050, and increased removal of greenhouse gases (including carbon sequestration strategies) as soon as possible.

Since climate changes are already upon us and because effects are likely to increase in the future, the Council believes that the proposed Roadless Rule revision must include a robust analysis and discussion of these possible future changes.

6. Restoring and Rehabilitating the Tongass National Forest. In the extensive wildlife planning for Prince of Wales Island completed some years ago, the Council identified restoring and rehabilitating the Tongass National Forest to its pre-logged state as a long-term policy goal needed to ensure continuation of subsistence uses. The Council recognized that ecological damage has been done and restrictions to subsistence uses have resulted from reduced availability of wildlife species, changed predator-prey-human relationships, diminished salmon returns, and altered vegetative composition and availability of subsistence plant foods.

7. Transition from Old Growth. This Council has supported alternatives to timber clear-cuts and adaptive management strategies to improve renewable subsistence resources in the Tongass National Forest. Unfortunately, Council members see no evidence that a transition from harvesting old growth is taking place. Forest sales egregiously allow and encourage round log export of old growth and second growth. The current Roadless Rule protects some of the last old-growth forest but the proposed Roadless Rule would reverse this successful conservation policy.

8. User Group Conflicts. Numerous rural Alaskans live off the land, relying on fish, wildlife, and other wild resources. Many of these rural residents depend on access to public land for subsistence opportunities. At its last meeting, several Council members shared their traditional ecological knowledge of local conditions and access. If users are required to travel farther to hunt, fish, and forage, as a result of the proposed Roadless Rule, it will likely create conflicts between users for access to subsistence resources.

Thank you for the opportunity to comment on the development of the proposed Roadless Rule. The Council will provide additional comments upon receiving the Alaska Roadless Rule Draft Environmental Impact Statement. If you have any questions regarding this letter, they can be addressed through our Council Coordinator, DeAnna Perry at (907) 283-7918 or via email at deanna.perry@usda.gov.

Sincerely,



Donald Hernandez
Chair

cc: Federal Subsistence Board

Kenneth Tu, Interdisciplinary Team Leader, Alaska Roadless Rule, USDA Forest Service

Thomas Doolittle, Acting Assistant Regional Director, Office of Subsistence Management

Thomas Whitford, Acting Deputy Assistant Regional Director

Office of Subsistence Management

Jennifer Hardin, PhD, Subsistence Policy Coordinator, Office of Subsistence Management

George Pappas, State Subsistence Liaison, Office of Subsistence Management

Katerina Wessels, Acting Council Coordination Division Supervisor, Office of Subsistence Management

DeAnna Perry, Subsistence Council Coordinator, Office of Subsistence Management

Southeast Alaska Subsistence Regional Advisory Council

Ben Mulligan, Deputy Commissioner, Alaska Department of Fish and Game

Mark Burch, Special Projects Coordinator, Alaska Department of Fish and Game

Interagency Staff Committee

Administrative Record



File Code: 1010
Date: July 29, 2019

Mr. Don Hernandez
Chairman, Southeast Alaska Subsistence Regional Advisory Council
c/o Office of Subsistence Management
1011 East Tudor Road, MS 121
Anchorage, AK 99503-6199



Dear Chairman Hernandez:

Thank you for your recent letter regarding Alaska roadless rulemaking and the potential effects on subsistence resources in Southeast Alaska. I appreciate the opportunity to continue the dialogue, and look forward to further discussion with the Southeast Alaska Subsistence Regional Advisory Council to ensure that your comments and recommendations are thoroughly considered throughout this rulemaking process.

I believe that many of the points you discussed in your letter dated July 10, 2019 will be addressed in the Draft Environmental Impact Statement (DEIS) for the proposed Alaska Roadless Rule, which will soon be released for a 60-day public comment period. Many of the concerns you highlighted, including subsistence effects, climate change, user group patterns, and economics, are analyzed to varying extents in the DEIS. In recognition of the importance of subsistence resources to the rural residents of Southeast Alaska, the Forest Service has decided to include an Alaska National Interest Lands Conservation Act, Section 810 analysis. I look forward to your review of the DEIS and engagement on how we can better address your concerns as we prepare the Final Environmental Impact Statement.

In regards to the State of Alaska's Citizen Advisory Committee (SOACAC), the SOACAC is not a Federal Advisory Committee Act body as it was convened and led by the State of Alaska. The Forest Service was invited to committee meetings to provide technical advice, but did not participate in the development of or decisions regarding the SOACAC recommendations. The SOACAC provided recommendations to the State of Alaska, which informed the State's input to the Forest Service during public scoping and the development of the DEIS.


I acknowledge your comments related to the expedited timeframe of Alaska roadless rulemaking, and your concerns that the interests of Southeast Alaska residents are not being fully considered. The pace of the Alaska roadless rulemaking effort is in part due to the agency seeking to respond to a broader national public interest in improving efficiencies and reducing timelines for Forest Service environmental analysis and decision making processes. The Alaska roadless rulemaking effort is responsive to this national need, while still providing ample opportunity for meaningful engagement by tribes, other government agencies, stakeholder groups, communities, and the general public. The Forest Service values the comments that have been received during this rulemaking process to date. They have highlighted the issues important to rural communities in Southeast Alaska, and we are actively using them to develop alternatives that provide a range of management options that will be displayed in the DEIS.



Upon publication of the DEIS and proposed Alaska Roadless Rule, public information meetings will be held throughout communities in Southeast Alaska and in Anchorage, Alaska, and Washington, DC during the 60-day comment period. Of noteworthy importance, subsistence hearings will also be held in Southeast Alaska communities. When available, the schedule for these meetings and hearings, with community times, locations, and other information, will be posted at <https://www.fs.usda.gov/roadmain/roadless/alaskaroadlessrule>.

Thank you, again, for your letter. I hope that the members of the Council can attend the public information meetings and subsistence hearings discussed above, and I look forward to continued dialogue. I remain committed to ensuring opportunities for broad public participation throughout this rulemaking process.

Sincerely,



DAVID E. SCHMID
Regional Forester

cc: Sitka Pence, Melinda Hernandez Burke, Robin Dale



FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS

Federal Subsistence Board

1011 East Tudor Road, MS 121
Anchorage, Alaska 99503 - 6199



FOREST SERVICE

SEP 09 2019

OSM 19068.DP

Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
Office of the Secretary
1400 Independence Avenue, S.W.
Washington, DC 20250

Dear Secretary Perdue:

The Federal Subsistence Board (Board) is writing to share two letters received regarding Alaska Roadless Rulemaking. Letters from the Southeast Alaska Subsistence Regional Advisory Council (Council) copied to the Board dated March 5, 2019 and July 10, 2019 sent to Regional Forester Dave Schmid, Forest Supervisor Earl Stewart, and the Roadless Rulemaking Team regarding the proposed Alaska Roadless Rulemaking are enclosed.

The Council understands that you will soon be reviewing a Draft Environmental Impact Statement (DEIS) on this matter and, having provided comments to the U.S. Forest Service – Alaska Region and the Forest Service Roadless Rule Team, would like to provide that same information to you. The Council has expressed what it believes to be important information, which is contained in the enclosed letters, that is extremely vital in understanding how subsistence users utilize Federal public lands for their livelihood and it is crucial to consider in making land use determinations.

We thank you for your consideration of the Council's request on this issue.

Sincerely,

Anthony Christianson
Chair

Enclosures

cc: David Bernhardt, Secretary of the Interior, U.S. Department of the Interior
Federal Subsistence Board
Thomas Doolittle, Acting Assistant Regional Director, Office of Subsistence Management
Thomas Whitford, Acting Deputy Assistant Regional Director
Office of Subsistence Management
Jennifer Hardin, PhD, Subsistence Policy Coordinator, Office of Subsistence Management
George Pappas, State Subsistence Liaison, Office of Subsistence Management
Steven Fadden, Acting Coordination Division Chief, Office of Subsistence Management
DeAnna Perry, Council Coordinator, U.S. Forest Service
Southeast Alaska Subsistence Regional Advisory Council Members
Mark Burch, Special Projects Coordinator, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record



Federal Subsistence Board

1011 East Tudor Road, MS 121
Anchorage, Alaska 99503 - 6199



FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS

FOREST SERVICE

DEC 12 2019

OSM 19092.DP

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Mr. Secretary:

The Federal Subsistence Board (Board) received a copy of a letter from the Southeast Alaska Subsistence Regional Advisory Council (Council) that was sent to representatives of the U.S. Department of Agriculture – Forest Service (Forest Service) regarding the draft environmental impact statement (DEIS) prepared for the Proposed Alaska Roadless Rule.

The Council has requested that we forward this information to you. The Council has previously been involved in reviewing and evaluating management plans on the Tongass National Forest that may have substantial effects on subsistence uses of fish and wildlife in Southeast Alaska. The Council continues its commitment to provide information and comments on the development, amendment, and revision of land and resource management plans and to represent the interest of subsistence users regarding proposed regulations that may alter the ability to harvest and use resources on the Tongass National Forest.

The Council feels this information is vital to consider while deliberating the alternatives outlined in the DEIS.

Thank you for considering the Council's request on this issue.

Sincerely,

Anthony Christianson
Chair

Mr. Secretary

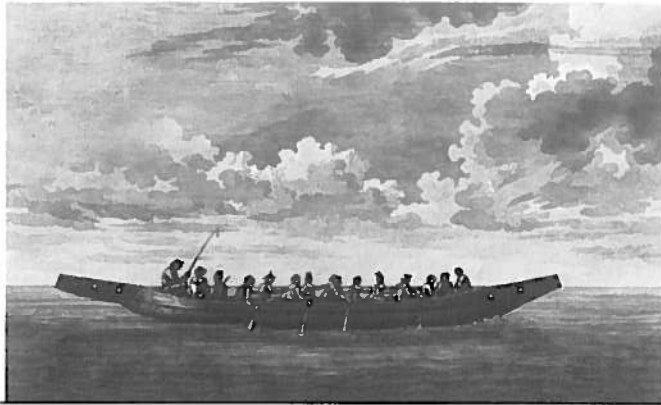
2

Enclosures

Southeast Regional Advisory Council Roadless DEIS Comments
March 5, 2019 Southeast Council letter to Roadless Rule team
July 10, 2019 Southeast Council letter to Forester David Schmid
November, 19, 2019 Tribes letters to the Alaska Delegation (3)
November 19, 2018 Tribes letter to Secretary Perdue

cc: Federal Subsistence Board

Thomas Doolittle, Acting Assistant Regional Director
Office of Subsistence Management
Greg Risdahl, Acting Deputy Assistant Regional Director
Office of Subsistence Management
Suzanne Worker, Acting Subsistence Policy Coordinator
Office of Subsistence Management
George Pappas, State Subsistence Liaison, Office of Subsistence Management
Tom Kron, Acting Supervisory Program Analyst, Office of Subsistence Management
DeAnna Perry, Subsistence Council Coordinator, U.S. Forest Service
Southeast Alaska Subsistence Regional Advisory Council Members
Mark Burch, Special Projects Coordinator, Alaska Department of Fish and Game
Benjamin Mulligan, Deputy Commissioner, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record



***Southeast Alaska
Subsistence Regional
Advisory Council***

**Don Hernandez, Chairman
1011 E. Tudor Road, MS121
Anchorage, Alaska 99503**

RAC SE19048.DP

DEC 12 2019

David Schmid, Regional Forester
U.S. Forest Service
U.S. Department of Agriculture
Attn: Alaska Roadless Rule
P.O. Box 21628
Juneau, Alaska 99802

Dear Regional Forester Schmid:

The Southeast Alaska Subsistence Regional Advisory Council (Council) was formed under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). Alaska National Interest Lands Conservation Act Section 805(a) requires the establishment of a regional advisory council in each subsistence resource region in Alaska, and gives each regional advisory council the authority to review and evaluate proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within that region.

The Council is regulated by the Federal Advisory Committee Act (FACA). The U.S. Congress has formally recognized the merits of seeking the advice and assistance of our nation's citizens to the executive branch of government. Advisory committees have played an important role in shaping programs and policies of the federal government and contributions by these groups have been impressive and diverse. The Council charter outlines its objectives and duties as a FACA committee, which include evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife on public lands within the Region.

The Council has participated in the United States Department of Agriculture Forest Service (Forest Service) planning on the Tongass National Forest for decades. In fact, as far back as 1997, the Council identified specific issues for its Annual Report¹:

“Section 810 analyses are insufficient. The agencies have completed many of these analyses and thought it is often determined that there would be a significant restriction of customary and traditional use as a result of planned actions, the agencies come to us with the actions regardless. As it stands, the agencies can say “go to the Federal Subsistence Board” for protections at the same time that the Board refers our concerns to the land managing agency. The subsistence users and the resources on which they depend end up stuck in the middle. This catch 22 is unacceptable, and the FSB, with its members as representatives of the involved agencies, is in the position to take a stand to help. We recommend that the Board issued policy statement to all agencies who have members on the Board to review and evaluate their methods and policies regarding Section 810, and to take appropriate steps to make sure their actions are more than simply lip service to ANILCA.”

At this same meeting, the Council encouraged a holistic approach to ecosystem management by the Forest Service:

“... we encourage a comprehensive approach to ecosystem management and the integration of landscape and multiple landscape level analyses. Some of the policies we suggest include:

- *Do not further fragment existing largest blocks of contiguous high volume old growth by timber harvesting or road building;*
- *Strictly adhere to Tongass Timber Reform Act Title III SEC 302(C)(2) in order to help reduce high-grading;*
- *Manage second growth to produce the necessary kinds and distribution of habitats for species diversity;*
- *Habitat conservation areas do not always correspond to community traditional and customary use areas. Additional work needs to go into correlating these two types of areas, highlighting the overlap and differences, and making accommodation for subsistence resources and uses on those lands;*
- *Tongass Land Management Plan should be adaptive, learning from experience and changing in response to new ideas, information, and conditions. It should also be based on natural patterns of disturbance and integrate a species approach with a landscape approach;*

¹ ANILCA 805(a)(3)(D) charges each regional advisory council with the preparation of an annual report to the Secretaries of Interior and Agriculture, which may contain “(iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and (iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.”

- *The pattern of long term contracting is inflexible over a long period of time and does not allow incremental changes in response to changes in information. This needs to change to accommodate changes in markets, demographics, and new information;*
- *The Council should be commenting on all withdrawals. The Council needs to be involved in Forest Service planning at an early state in order to inform the agency in ways that may prevent many of the problems now inherent in the Section 810 process."*

Clearly, the Council was involved early in reviewing and evaluating management plans on the Tongass that may have substantial effects on subsistence uses of fish and wildlife in Southeast Alaska. The Council continues its commitment to provide information and comments on the development, amendment, and revisions of land and resource management that may alter the ability of subsistence users to harvest and use resources on the Tongass National Forest.

This Council has valuable knowledge relevant to the proposed Alaska Roadless Rule issue and its potential effects on Southeast communities. The Council has previously provided comments on this issue by letter to the Regional Forester dated March 5, 2019 and July 10, 2019 (enclosed). The Council wishes to continue sharing its knowledge and provide a voice for the subsistence users who depend on the resources throughout the Tongass National Forest for their way of life. The Council, a FACA committee with specialized knowledge and experience on issues affecting subsistence uses, should have a meaningful role in evaluating significant restrictions of subsistence uses. The Council submits the following specific comments regarding the Alaska Roadless Rule Draft Environmental Impact Statement (DEIS), October 2019:

1. The Council finds it difficult to comment on how each action alternative meets the DEIS purpose and need because of the inappropriate scale of the analysis and the regulatory confusion between combining the National Environmental Policy Act (NEPA) and rule-making processes.

In order to provide useful and meaningful comments on the DEIS, the Council will compare each alternative on how it fulfills the purpose and need for the action. The DEIS outlines three key issues that came from public involvement during scoping for the Notice of Intent, including:

- Key Issue #1: Conserve roadless area characteristics;
- Key Issue #2: Support local and regional socioeconomic well-being, Alaska Native culture, rural subsistence activities, and economic opportunity across multiple economic sectors;
- Key Issue #3: Conserve terrestrial habitat, aquatic habitat, and biological diversity

Next, the Forest Service developed six alternatives, where Alternative 1 represented the No Action Alternative required in NEPA and Alternative 6 represented Full Exemption, as requested

in the State of Alaska petition. The range of alternatives 2-5 seemingly employ varying degrees of the three key issues and land management categories. Table 2-11 of the DEIS provides a comparison of the alternatives. Key Issue 1 is the only subject where we see any difference between alternatives. Key Issue 1 compares overall roadless characteristics, amount of roadless area removed or added, and roadless area in developmental LUDs. Essentially, the table states that Alternatives 1 and 2 would not change with respect to Roadless Area Conservation; Alternatives 3 and 4 would have minimal adverse effects on Roadless Area Conservation; and Alternatives 5 and 6 would have moderate adverse effects on Roadless Area Conservation. Beyond Key Issue 1, the remaining comparison of alternatives shows little to no differences between Alternatives 2-6. The only real deviation is in the No Action Alternative (Alternative 1).

The Council does not believe that the scale used in the DEIS analysis was correct, as the effects analysis incorporates 9.2 million acres of Tongass National Forest that is currently classified as roadless under the 2001 Roadless Rule. While the argument by the Forest Service has been that an Alaska Roadless Rule is not about timber harvest because the volume of timber harvest will not change, the Council affirms that a primary effect of the Proposed Rule will change “where” timber may be harvested, and that volume of timber extracted may now be shifted to those locations. Approximately 2.1 million acres of the Tongass National Forest is currently classified as “Roadless Area in Developmental LUDs”. Essentially, Alternative 6 – Full Exemption, would open these areas up and because it is a developmental LUD, timber harvest could be shifted to these areas which previously only had Roadless Area protections. The environmental effects analysis in the DEIS analyzes the effects across the entire 9.2 million acres, which appears to drown out any localized effects that each of the six alternatives may have on the 2.1 million acres of development LUDs. At a minimum, the effects analysis should have been scaled down to USDA Forest Service Ranger District levels because the Council believes that certain Ranger Districts (such as Prince of Wales and Petersburg) would demonstrate how the Proposed Rule would cause significant impacts to certain areas.

Chapter 3 of the DEIS contains the Affected Environment and Environmental Consequences analyses, as required by NEPA. In the DEIS, “Subsistence” falls under Key Issue #3 (see above). The Affected Environment for Subsistence starts on page 3-217, which provides the legal context for subsistence use through Title VIII of ANILCA.

National Environmental Policy Act (42 U.S.C. §§4321-4347) was the first statute to require an “impact statement” as a way to ensure that federal agencies give special consideration to certain issues during the rulemaking process. NEPA requires all federal agencies to include in every recommendation or report related to “major Federal actions significantly affecting the quality of the human environment,” a detailed statement on the environmental impact of the proposed action. Initially, though, agencies make a threshold determination (known as an “environmental assessment”) as to whether the rule or other action represents a significant impact on the environment. If not, the agency issues a “finding of no significant impact.” If the agency concludes that there is a significant impact, the agency then prepares a full “environmental impact statement” describing the likely effects of the rule (Congressional Research Service, 2013; <https://fas.org/sgp/crs/misc/RL32240.pdf>).

In reviewing the DEIS, the Council feels that the Forest Service uses the NEPA and the rulemaking process interchangeably, which creates confusion. When questions arise about potential environmental impacts, the analysis says there is 'no effect' because the action is rulemaking, and does not authorize specific actions on the ground. If the preferred alternative were to be accepted, then the argument is that specific on-the-ground projects would be subject to NEPA. First, continuously subjecting the public to yet another arduous NEPA process for each new timber sale or project is a burden to the people. Secondly, the Council would argue that the USDA did not adhere to the first part of how NEPA applies to the rulemaking process by producing a detailed statement on the environmental impacts of the proposed action. If this occurred, the Council would like to request a copy of the threshold determination (environmental assessment) as to whether or not the proposed rule represents a significant impact on the environment.

2. The Council believes the subsistence use information in the DEIS is outdated, and recommends the DEIS show current subsistence harvest and use patterns by community.

The Forest Service commissioned major studies of subsistence harvest and use of fish and wildlife in the Tongass National Forest in the 1980s and 1990s, mainly to have adequate data to document subsistence harvest and use, map subsistence use areas, and examine the cultural, social, and economic importance of subsistence. This work included in-depth community studies in many Southeast Alaska communities, comprehensive surveys of harvest and use that documented the diet breadth of resources used, harvest levels and food weight of harvests estimated by community, and map biographies used to accurately depict community use areas. Subsistence users in rural Southeast Alaska typically use more than 200 pounds food weight of fish and wildlife harvested from the Tongass National Forest and adjacent waters. The Council estimates that between \$1 - 2 million was spent on these early baseline studies. Forest Service has largely abandoned its responsibility to continue to monitor subsistence uses in the Tongass National Forest, and has not supported data gathering efforts needed to determine if there have been changes in subsistence uses, or if the Forest Service's land management practices have significantly restricted subsistence uses.

The effects of forest management actions on subsistence are not merely theoretical or anticipated. In fact, much of the Council's regulatory work addresses restrictions to subsistence uses that have taken place due to past Forest Service management actions. For example, in its role of providing recommendations on hunting and fishing regulations on Federal public lands, the Council has had to repeatedly consider proposals concerning management of deer on Prince of Wales Island. Because Federally qualified subsistence users have had difficulty in getting the deer that they need, the Council has, somewhat reluctantly, recommended reductions in seasons and harvest limits for deer for non-Federally qualified urban hunters in Game Management Unit 2. These regulatory changes were required largely because of the deleterious effects of timber

harvest and road building on subsistence uses of fish and wildlife on Prince of Wales Island and other islands in Game Management Unit 2.

The Forest Service has largely neglected to gather data needed to show current subsistence patterns beyond baseline studies that are now 20 to 30 years old. Furthermore, the DEIS makes very limited use of the available, excellent, although dated, data on subsistence. At a minimum, the DEIS should describe subsistence harvest and use at the community level. This would need to include all available harvest and map data showing use areas. An adequate analysis should examine subsistence dependency and note any changes in subsistence uses that may have taken place. It should discuss subsistence on a species by species basis. Such an analysis would also describe expected effects, community by community. A finding of significant restriction on subsistence uses would need to specifically show what uses were affected and where these restrictions would take place.

Failure to adequately document subsistence uses through support for data gathering activities and failure to thoroughly describe and analyze subsistence uses on a community scale make it impossible for the DEIS to fulfill its responsibilities under ANILCA Section 810. **The DEIS needs to be withdrawn and redone to rectify these abject failures.**

3. The Council does not believe making references to the 2016 FEIS for the Amendment to the Forest Land Management Plan is sufficient analysis for the Alaska Roadless Rule DEIS.

The DEIS frequently refers to other Forest Service documents in lieu of presenting sufficient detail such that it makes it difficult for the reader to understand the importance of the Alaska Roadless Rule document. In general, the DEIS often directs the reader to the less than transparent 2016 Forest Plan FEIS. For example, the DEIS states in 3-128:

“A summary of the effects of climate change on Tongass resources is presented in the Climate and Air section of the 2016 Forest Plan FEIS (USDA Forest Service 2016b). Because the effects of the alternatives on climate change are the same, this discussion is not repeated here.”

This is not acceptable for a number of reasons. First, very few people reviewing the 2019 DEIS have familiarity with or access to the 2016 document. The DEIS needs to be evaluated on what is included in the DEIS. Referring to other documents does not meet NEPA requirements. If it did, future Forest Service planning documents could simply be lists of references to other NEPA documents. This is not the intention of NEPA. Second, by hanging the discussion of climate change on a 2016 FEIS, the 2019 DEIS appears to admit that no work has been done that examines what we know now about climate change. The 2016 FEIS relies on data and analysis done years ago. Climate science has advanced a great deal in the past decade. Specifically, we know much more about the magnitude of global heating because we have already experienced it firsthand, and much more about what is likely to occur in coming decades, than we knew when

the 2016 FEIS was being prepared. We also have the interagency November 2018 National Climate Assessment with a section specifically addressing Alaska.

Finally, the 2019 DEIS indicates that the 2016 FEIS will be changed to allow more timber harvest. Indeed, if there is no subsequent change in the 2016 FEIS, there is no reason to change the 2001 Roadless Rule designation. At the present time, exemptions exist in the 2001 Roadless Rule for many important development activities. These activities include providing access for mining development, for hydro and other utility construction and maintenance, for improving communications, and other activities. The Council heard from Forest Service staff that about 50 exemptions have been recognized since the 2001 Roadless Rule was enacted, and that no exemptions were denied.

The only significant development activity limited by the 2001 Roadless Rule is roadbuilding to support logging in roadless areas. In the State of Alaska's January 19, 2018 submission to the US Department of Agriculture, Commissioner Andrew Mack is clear on the purpose of his petition for rulemaking found at A-1:

"We see this as one of many significant opportunities to work with you to support a diverse and robust forest products sector in Southeast Alaska. Rebuilding this sector will create jobs and prosperity for our rural communities located in the Tongass National Forest."

Since logging acreage cannot be increased without changes to the 2016 FEIS, the Council anticipates that the Forest Service will quickly act to amend or revise the 2016 FEIS once it has issued a record of decision on the revised 2001 Roadless Rule. The amended or revised 2016 FEIS would increase logging activity in line with the request from the State of Alaska. If no change in the 2016 FEIS takes place, very little additional timber may be harvested and the dreams of the vestigial Southeast forest products industry will be dashed.

4. The Council believes the Cumulative Effects analysis in the DEIS is insufficient.

Cumulative effects are defined by the Council on Environmental Quality Regulations as:

"The impact on the environment which results from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions regardless of what agency, Federal or non-Federal or person undertakes such actions."

The Council feels that the underlying assumption that none of the Alaska Roadless Rule alternatives propose or authorize specific on the ground actions is extremely short-sighted (see page B-1 in DEIS). The Council believes that the selection of Alternative 6 (full exemption) would be the first step toward future incremental impacts in areas where road building is currently not allowed.

Within the Alaska Roadless Rule DEIS, the timeframe of analysis identified for Regional

cumulative effects (page B2 in the DEIS) states:

“...encompasses past and future activities. Past activities include timber harvest and other activities that date back over 70 years, while future activities consider timber harvest up to 100 years in the future.”

Therefore, the cumulative effects section should have included a discussion of both the Prince of Wales Landscape Level Assessment and the Central Tongass Landscape Level Assessment. Further, a mapping exercise on how the project areas in these two projects would overlap with the different alternatives of the Alaska Roadless Rule should have been conducted, since many alternatives, including full exemption, would now allow for road building in previously defined roadless areas.

5. The Council believes the DEIS does not provide an adequate analysis for Environmental Justice, and that any of the action alternatives will most assuredly prompt an amendment or revision to the 2016 Forest Plan.

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) requires federal agencies to perform an analysis of whether the proposed project would cause disproportionate adverse impacts to minority or low-income populations that live in the proposed project area. The Alaska Roadless Rule DEIS includes a brief Environmental Consequences section on page 3-230 that states:

“As discussed elsewhere, this EIS is programmatic and, as such, examines direction and allowable activities for broad land areas, rather than schedules specific activities in specific locations. The action alternatives would increase the acres available for timber harvest, but harvest levels are expected to remain the same across all alternatives. In addition, while there may be some variation by alternative, the amount of new or reconstructed road miles is expected to be broadly similar across all alternatives. This makes it difficult to evaluate the effects of the alternatives on particular communities or populations.”

The Council believes this explanation and the two subsequent paragraphs in the DEIS are deficient. First, while the DEIS may be programmatic, it would be the first step needed to shift where timber harvest may occur. The subsequent argument suggests that protections would still be offered by Forest-wide Standards and Guidelines in the 2016 Forest Plan, but the State of Alaska has already requested that the Secretary of Agriculture direct the Forest Service to commence a Tongass Land Management Plan (TLMP) revision or amendment (pages A2-A9 of DEIS). It is noted that the 1997 Tongass Land Management Plan was revised in 2008 and then again through an amendment in 2016. In March of 2019, Administrative Changes to the 2016 Forest Plan have already occurred. It is not comforting to be told that the Forest Plan and Standards and Guidelines will continue to be protective of specific resources (i.e. Heritage

Resources, page 3-230 in the DEIS), when these plans appear to change readily. The Council feels it would be better to leave the 2001 Roadless Rule protections in place, rather than rely on standards, guidelines and plans that are subject to change if full exemption is granted.

Current protections from the 2001 Roadless Rule around predominantly Native Alaskan communities such as Kake, Hoonah, Hydaburg, and Yakutat would disappear in this first “programmatic” step. A simple mapping exercise that overlays Alternative 6 with the current location of suitable timber shows where, relative to predominantly minority and low-income communities, road building for timber harvest would be able to occur with a full exemption to the 2001 Roadless Rule. This exercise should be applied to the other alternatives, as well, in order to truly determine the differences in environmental consequences between alternatives. Finally, the DEIS should outline the impacts to minority or low-income populations by each alternative.

The Council is concerned that opening up roadless areas to logging will encourage a Forest Plan revision or amendment to facilitate further development. When the Council pressed Deputy Chief French on this issue at our meeting, his response was less than reassuring. Although he expressed a commitment to following the existing Forest Plan, which calls for a rapid transition to second growth management, he also noted that Forest Plans are subject to revisions and amendments. The public is very aware that there has been ardent resistance from timber industry groups to a transition to second growth. We are also aware that there is strong political support from Governor Dunleavy and our Alaska Congressional Delegation for the timber industry and a full exemption from the 2001 Roadless Rule. It is not unreasonable to assume that if hundreds of thousands of acres of forest are reclassified as suitable timber for logging, there will be an effort to revise the Forest Plan to exploit that opportunity. Given that any change to the 2001 Roadless Rule will be a “durable and long lasting regulation” and that Forest Plans are subject to changes at regular intervals, the Council has no confidence that subsistence uses in the roadless areas will be protected for future generations. The continuation of subsistence practices long into the future is foremost the Council’s responsibility. Custom and tradition are the heart of the subsistence way of life, and having large blocks of intact habitat where subsistence harvesting can occur in the traditional manner is the only assurance we have that these practices will continue for many generations to come.

6. The Council supports the Federally recognized Tribes and Tribal Cooperating Agencies that support the No Action Alternative.

The Council recognizes that the Forest Service requested the participation of Federally recognized Tribes from Southeast Alaska as cooperating agencies. Six Tribes rose to the occasion and signed on via Memorandum of Understanding (MOU) in good faith to provide local expertise and knowledge of how changes to the 2001 Roadless Rule may impact areas within their traditional territories. The Council commends the Forest Service for acknowledging that local Tribes have specialized expertise for the lands that fall within their traditional territories. However, a recent letter signed by all six Tribal Cooperating Agencies criticizes the process:

- (1) *“We are profoundly disappointed with the manner the roadless rule exemption process has been handled, especially in regards the federally recognized tribes that involved themselves as “cooperating agencies”. It is our opinion that the lead agency has not honored their responsibility to cooperating agencies. Specifically, we point to two sections of the main steps of the NEPA process (40 CFR § 1501.6 – Cooperating Agencies) which we do not feel have been met:*
- (2) *Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.*
- (3) *Meet with a cooperating agency at the latter’s request.*

The U.S. Forest Service plowed recklessly ahead at a frantic pace to satisfy a predetermined timeline. The arbitrary two-week deadline given for Tribal cooperating agencies to review and comment on the Preliminary Draft Environmental Impact Statement (DEIS) was insufficient for us to solicit insights fully from our respective Tribal Councils into the far-reaching implication of this controversial rulemaking. Additionally, the USFS declined to address all of the substantive concerns raised by the cooperating agency Tribes on the Preliminary DEIS, including updating community use areas to reflect territories/uses accurately or consider alternatives that provide co-management authority for Tribes concerning all activities within inventoried roadless areas located inside a Tribe’s traditional territory.”

The letter also condemns the Secretary of Agriculture for choosing Alternative 6 as the Preferred Alternative in the DEIS:

“The granting of the State of Alaska’s petition for an Alaskan exemption to the 2001 National Roadless Conservation Rule on the Tongass in 2018, without consulting any affected Native peoples, represents the most controversial and potentially destructive assault on our way of life to date. It was clear from the outset that an Alaska Specific Roadless Rule would not leave current roadless protections in place – roadless protections were going to be stripped from the lands we have called home since time immemorial.”

In testimony before the U.S. House of Representatives Subcommittee for National Parks, Forests, and Public Lands, President Joel Jackson from the Organized Village of Kake summarized their experience at trying to participate as a Tribal cooperating agency in the process. His testimony confirmed what the Council had been hearing since the process started: Tribes put in countless hours providing local knowledge, without compensation or any time extensions, only to have information not included in the DEIS.

The selection of Alternative 6 for Full Exemption to the 2001 Roadless Rule as the preferred alternative appears to have blindsided the Tribal Cooperating Agencies, and testimony from Region 10 Planning Director Chad VanOrmer during the Council meeting (November 5, 2019) was chosen because it best fit the petition request by the State of Alaska, not because it best fit

the Purpose and Need of the DEIS. Subsequently, even prior to the release of the DEIS, the Alaska Congressional Delegation expressed their support for the full exemption alternative:

“The one-size-fits-all Roadless Rule is an unnecessary layer of paralyzing regulation that should never have been applied to Alaska. A full exemption from it has always been my preference, as well as the united preference of our state’s congressional delegation and that of Alaska’s governors, regardless of party.” – Lisa Murkowski, Washington Post Op-Ed, September 25, 2019

While there were six alternatives developed in the DEIS, it appears on a national level that the State of Alaska’s request for a full exemption is the preferred alternative; however, on a local level there is a united voice against full exemption. This was published in the summary of comments from the scoping period, where 90% of the comments were opposed to exempting the Tongass National Forest from the 2001 Roadless Rule. Further, all six cooperating agencies acknowledge that while some Tribes may have been working to find a compromise between the No Action and Full Exemption Alternatives, none of the Tribes chose Full Exemption.

After government-to-government consultation with Undersecretary Hubbard, additional Federally recognized Tribes have recently united and spoken out against Full Exemption (March 5, 2019 letter to Roadless Rule team; July 10, 2019 letter to David Schmid; November 19, 2018 letter to Sonny Perdue from Tribes; and November, 19, 2019 letters to the Alaska Delegation from Tribes—all enclosed) and are now supporting Alternative 1, the No Action Alternative in the DEIS. The Council fully and wholeheartedly continues to support the Federally recognized Tribes, the Tribal cooperating agencies, and the majority of the Southeast Alaska public that weighed in during the process.

7. The Council supports the use of Traditional kwaan and clan territories in the DEIS.

Traditional clan and kwaan ownership of lands that now make up the Tongass National Forest is well established. Moreover, maps and descriptions of this ownership are readily available. See *Haa Aaní Our Land: Tlingit and Haida Land Rights and Use*, Walter Goldschmidt and Theodore Hass, 1913, reissued 1998. These traditional use areas were reviewed through interviews in study communities by the Division of Subsistence in the 1980s and 1990s with Forest Service support. Traditional ownership or *at ow* differs from legal ownership in that it establishes the right to use land and resources under traditional law. In Tlingit and Haida culture and society, this has been a formal ownership and use right; this ownership normally did not include transactional sale or purchase of land.

The omission of depiction and description of traditional kwaan and clan territories is a NEPA failing, since traditional ownership or *at ow* is a “fact on the land” that needs to be included. Omission also continues to unfortunately enable colonial attitudes and approaches to land management that ignore or devalue traditional culture. For the Tribes and clans of Southeast Alaska, this is an existential issue.

8. The Council supports and advocates for subsistence users who have testified on the record their recommendation of no change to the 2001 Roadless Rule.

The Council heard extensive testimony on the Alaska Roadless Rule at the two previous Council meetings. No change to the existing rule has been the overwhelming recommendation. Subsistence users in rural communities stress the importance of healthy fish and wildlife habitat to support their subsistence harvesting. Rural subsistence users also depend on these same habitats to support their means of making a living, which are primarily connected to commercial fishing, tourism, and businesses related to those industries. Protecting cultural and sacred sites has also been a main concern. The Council believes that the small number of timber harvesting jobs held by rural residents will not be adversely affected and, in fact, could increase if the Forest Service implements its Forest Plan to transition to second growth harvest—without impacting existing roadless areas.

9. The Council supports the development of a strong ANILCA Section 810 analysis, which includes an evaluation of cumulative effects needed to make a determination of significant restriction to subsistence uses. A Record of Decision would need to establish a rationale that the action was ‘necessary.’

Much of the Council’s work concerns the fish and wildlife regulatory responsibilities found in ANILCA Sections 802 and 804. ANILCA Section 805 authorizes the Council to review and evaluate management plans.

“§ 805. (a) Except as otherwise provided in subsection (d) of this section, one year after the date of enactment of this Act, the Secretary in consultation with the State shall establish:

(1) at least six Alaska subsistence resource regions, which taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated;

(2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and

(3) a regional advisory council in each subsistence resource region. Each regional advisory council shall be composed of residents of the region and shall have the following authority:

*(A) the review and evaluation of proposals for regulations policies, **management plans**, and other matters relating to subsistence uses of fish and wildlife within the region;*

(B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region”

Section 810 of ANILCA informs the Council's responsibilities concerning land management actions. This section is the bedrock of ANILCA protection of subsistence uses from unnecessary, significant restrictions caused by Federal land management decisions.

*"§810. (a) In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. **No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—***

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to §805;

(2) gives notice of, and holds, a hearing in the vicinity of the area involved; and

(3) determines that--

*(A) such a significant restriction of subsistence uses is **necessary**, consistent with sound management principles for the utilization of the public lands,*

*(B) the proposed activity will involve the **minimal amount of public lands necessary** to accomplish the purposes of such use, occupancy, or other disposition, and*

*(C) reasonable steps will be taken to **minimize adverse impacts upon subsistence uses and resources** resulting from such actions.*

*(b) If the Secretary is required to prepare an environmental impact statement pursuant to §102(2)(C) of the National Environmental Policy Act, he shall provide the notice and hearing and **include the findings required by subsection (a)** as part of such environmental impact statement.*

(c) Nothing herein shall be construed to prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the Alaska Statehood Act or the Alaska Native Claims Settlement Act.

(d) After compliance with the procedural requirements of this section and other applicable law, the head of the appropriate Federal agency may manage or dispose of public lands under his primary jurisdiction for any of those uses or purposes authorized by this Act or other law."

ANILCA Section 810 requires Federal land management agencies to evaluate the effects of their proposed actions on subsistence uses and needs. Where an agency finds that its action may significantly restrict subsistence uses, it is prohibited from implementing that action prior to taking certain steps. Those steps include: giving notice to certain State, local, and regional entities (including regional councils); giving notice of and holding hearings in the vicinity of the

area involved; and determining that (A) such a significant restriction if subsistence uses is necessary, (B) the proposed activity will involve the minimal amount of public lands necessary, and (C) reasonable steps will be taken to minimize adverse impacts on subsistence uses and resources. The agency must also provide its “may significantly restrict” finding and hearing notices within its environmental impact statement. ANILCA Section 810 hearings are held to inform the public that the land management action may significantly restrict subsistence uses, to verify the subsistence analysis, and to hear directly from the public concerning the acceptability of the likely restrictions on subsistence uses. The hearings required under ANILCA Section 810 **cannot precede the required subsistence finding (FSH2090.23).**

The DEIS and Roadless Rule team appear to misunderstand ANILCA Section 810 and have not fully committed to following ANILCA Section 810 provisions. The Council heard a presentation on the Alaska Roadless Rule process by Region 10 Economist Nicole Grewe and Tongass Forest Supervisor Earl Stewart at our winter meeting in Wrangell, Alaska on March 19-21, 2019. Ms. Grewe stated on the record (Transcript of Council Meeting, March 21, 2019, Pages 293-297) that the DEIS was not required to follow Section 810 procedures. The Council strongly disagreed with this erroneous interpretation and requested that the Roadless team follow the required ANILCA Section 810 procedures. Subsequent to the March meeting, Council Chair Don Hernandez raised this issue with Regional Forester Dave Schmid. Mr. Schmid assured Mr. Hernandez that ANILCA Section 810 procedures would be followed (Transcript of Federal Subsistence Board Regulatory Meeting, April 18, 2019, Pages 23-25).

At our recent Council meeting in Ketchikan, November 5-7, 2019, Alaska Roadless Rule team members Deputy Chief Forester Chris French and Region 10 Planning Director Chad VanOrmer presented the DEIS to the Council. Their presentation made no mention of ANILCA Section 810 requirements. Mr. French was asked repeatedly on whether or not the Roadless EIS would follow ANILCA procedures as the Council had requested in previous comments. Mr. French equivocated and told the Council that there were different views on whether there would be a subsistence determination. Apparently, this issue was not settled before issuing the DEIS. He incorrectly stated that subsistence determinations were not made in the 2016 FEIS. Mr. French communicated by email with the Council, maintaining that the Final Environmental Impact Statement (FEIS) would make an ANILCA Section 810 finding. He said that a letter to that effect was being sent to the Council, which was received November 15, 2019. The Council notes that the DEIS states on page 3-328 that “an ANILCA determination may be made in the record of decision, if appropriate.” This does not indicate a commitment to follow ANILCA requirements.

The Council makes the following points regarding making ANILCA Section 810 determinations:

- a) ANILCA procedures reproduced above are straightforward and easy to understand.
- b) The Council finds that the DEIS simply does not sufficiently address this requirement. The DEIS does not appear to cite the ANILCA Section 810 requirements in subsistence sections or elsewhere in the text. From reviewing the DEIS text and listening to the

Alaska Roadless Rule team presentations at public meetings, no one would have any idea that ANILCA Section 810 was a planning requirement.

- c) Available subsistence data including community studies, mapping data showing subsistence use areas, and quantitative data showing harvest levels and participation were inadequately presented and not analyzed. The subsistence data found in the DEIS is wholly inadequate to evaluate impacts on subsistence uses.
- d) The scale of presentation is wholly inadequate to see what effects on subsistence uses might take place by community or area.
- e) Past Forest Service NEPA documents have considered cumulative effects on subsistence uses. Cumulative effects refer to the results of major changes in the Tongass ecology due to the industrial logging and attendant road building initiated with the long-term sales.
- f) The DEIS needs to present the context of ANILCA Section 810 and describe how its requirements have been met in earlier NEPA documents. This is essential for the public to understand the scale and scope of the DEIS.

Regarding the ANILCA Section 810 determination process, the Council concludes the following:

- a) ANILCA Section 810 requirements have not been met in the DEIS. In fact, the DEIS does not even attempt to meet them.
- b) The so-called subsistence hearings did not meet ANILCA Section 810 requirements for hearings since the DEIS did not make any findings (of significant impact or otherwise) to subsistence uses AND did not show any effects at a scale meaningful to participants at the hearings. In hearings that Council members attended or heard about, people valiantly spoke of the importance of subsistence to their families, their communities, and their culture. But in the absence of an adequate DEIS and with presentations by Alaska Roadless Rule team members that did not provide an orientation to ANILCA Section 810 requirements, testimony could not address specific problems. The hearings were basically “open mic” time. It is noteworthy, however, that virtually all speakers favored Alternative 1, the no action alternative.
- c) **To meet ANILCA Section 810 requirements, the DEIS needs to be withdrawn since it clearly does not follow the law.** The Council stands ready to work with a subsequent Roadless Rule team in preparing an adequate planning document.

10. The Council wishes to remain engaged with the Alaska Roadless Rule team through the ANILCA Section 810 analysis and ANILCA Section 810 determination.

The Council appreciates that ANILCA Section 810 hearings were held in rural communities in Southeast Alaska during the public comment period for the DEIS. It was the Council’s intention to provide a summary for each community on behalf of the testimony received during the hearings. However, not all hearings had been conducted prior to the Council’s timeline for submitting comments during the public comment period. Further, transcriptions from the hearings were not available. While audio recording were available, and some hearings were attended by Council members and audio recordings were reviewed, there was not sufficient time for the Council to capture and summarize all points. The Council reserves the right to take this

effort up at their next regularly scheduled meeting in February, 2020, in Juneau. Further, the Council wishes to remain involved in providing subsistence related information into the NEPA process, even if it is outside of the public process, in our capacity as a FACA committee.

11. The Council requested a carbon accounting analysis for the Tongass National Forest, which was not fulfilled. Further, the DEIS discussion on carbon is inadequate.

In earlier comments on the Alaska Roadless Rule process, the Council asked for a carbon budget and accounting for the Tongass National Forest. We requested estimation and analysis of:

- a. Carbon capacity before industrial logging
- b. Carbon capacity at present after industrial logging
- c. Carbon capacity projection

These requests for meaningful data and analysis were not fulfilled. The DEIS discusses carbon beginning at page 3-121 and continues on the following pages. The DEIS makes no attempt to provide quantitative data on carbon capacity—past, present, or future. This is a clear failing of the DEIS since it does not present the best available data on this topic. In place of actual data, the DEIS launches into an inconclusive lengthy discussion that befuddles the obvious fact that removing large quantities of timber from the Tongass National Forest reduces the carbon carrying capacity of the forest.

Given the importance of carbon sinks and carbon storage in the context of global heating, the omission of any substantive analysis and quantification is unconscionable. The DEIS discursive discussion obfuscates the effects of timber harvest in the Tongass National Forest by refusing to accurately report known and established science on the role of forests in capturing and storing carbon. The tone edges on a denial of established climate science.

Recent sales of carbon credits by Sealaska Corporation (Sealaska) provide a metric for the economic value of the carbon stored in the Tongass National Forest. These sales allow and require the DEIS to develop an indicator dollar value for stored carbon. By forgoing development of some of its timber lands, Sealaska received cash payments. Data from these sales should be used to impute a dollar value to Tongass National Forest lands.

The Council feels the DEIS analysis of carbon sequestration is also inadequate. The DEIS discusses carbon sequestration on 3-123, but the discussion is difficult to follow and is inconclusive. The DEIS reports that, worldwide, forests take up and store 1.4 billion metric tons of carbon every year. The DEIS cites one paper from 2006 (Leighty et al.) that estimates that the Tongass National Forest lost 6.4 to 17.2 million metric tons of carbon due to logging. Heath et al. (2011) estimated that the Tongass National Forest accounted for 11% of the carbon stored in national forests in the United States in 2005. According to the DEIS, the Tongass National Forest may store an estimated 601 to 650 million U.S. tons of above-ground carbon. This is equivalent to 2.4 billion tons of carbon dioxide. Needless to say, this is a lot of carbon and

carbon dioxide equivalents. However, the data cited in the DEIS are old and more recent studies on forest carbon sequestration are not examined. This is a serious defect in the DEIS.

The Council believes that carbon sequestration needs to be considered as a best use of the Tongass National Forest. By preserving and enhancing forest resources, sequestration would also serve to protect subsistence uses of the Tongass National Forest from significant restrictions. The decision not to consider sequestration as an important forest value may have ANILCA Section 810 implications.

Enhanced carbon sequestration is required in light of the October 2018 International Panel on Climate Change report and November 2018 National Climate Assessment report. These documents are cited, but their stark conclusions are not discussed. Note that the National Climate Assessment report has a separate section covering Alaska. The DEIS needs to address how the change in the 2001 Roadless Rule would affect carbon sequestration, considering the global need for climate emergency amelioration.

12. The Council believes full exemption of the 2001 Roadless Rule will allow for more timber harvest.

The Council believes the claim that the action alternatives do not increase timber harvest is erroneous. All action alternatives including the preferred alternative result in increases in suitable timber land by allowing logging in currently roadless areas. While the 2016 FEIS may set the allowable acreage for timber sales, harvest of some of the remaining high-volume old growth stands that are currently in roadless areas will increase the amount of timber harvested. These changes will allow greater logging of old growth timber to take place and are a significant land management action. The Council is baffled that the Forest Service's DEIS appears to claim that changes to the 2001 Roadless Rule will not result in any actual changes in land management. The stated purpose of the change in the Alaska Roadless Rule is to allow for enhanced development, i.e., logging, in the Tongass National Forest.

As we see it, the main reason for seeking an exemption for the Tongass is to bolster the timber industry. If there was enough "economic timber" available within the scope of the existing Forest Plan it would not be necessary to develop the roadless areas. The Council contends that in order for the agency to meet its requirements to provide economically viable timber sales in the coming years it will undoubtedly target logging some of the most biologically valuable old growth habitat available in the roadless areas. This high-grading would have a much greater detrimental effect on subsistence resources. In addition to the harm from high-grading, another negative impact would be the fragmentation of large blocks of old growth habitat, which is the cornerstone of the conservation strategy—an integral part of the Forest Plan.

The intent behind choosing Alternative 6 as the preferred alternative in the DEIS is clear.

"Alternative 6 would result in an administrative change to the timber land suitability determinations made in the 2016 Forest Plan. Specifically, lands

identified as suitable for timber production that were deemed unsuitable solely due to roadless designation in the Plan would be designated as suitable for timber production."

Additionally,

"For larger sales, more acres of suitable old-growth land would allow the Forest Service greater flexibility in the selection of future timber sale areas, as well as the potential for more flexibility in sale design, depending on the planning areas selected. This improved flexibility could, in turn, potentially improve the Forest Service's ability to offer economic sales that meet the needs of industry. This greater flexibility could be especially beneficial during the first two decades of the 2016 Forest Plan (the transition period), when most old-growth harvest would take place."

The preferred alternative, with full exemption from the 2001 Roadless Rule, would result in no regulatory prohibitions on timber harvest, or road construction/reconstruction, and land management activities would be guided primarily by the 2016 Tongass National Forest Plan. It is important to note that the Forest Plan was based on an alternative that provided the second largest amount of old-growth volume among the considered action alternatives. The Plan is expected to produce an average of about 12 MMBF of young growth and 34 MMBF of old growth per year during the first 10 years. Under the current Forest Plan, Inventoried Roadless Areas are withdrawn from timber production and are not suitable for timber production. The protection of roadless characteristics would be directly proportional to the projected areas of timber harvest in the preferred alternative. The Council believes that the proposed Alaska Roadless Rule would open up current protected old growth stands that are crucial for a range of fish and wildlife habitats, contrary to the comment that the amount of timber harvested under the preferred alternative would not be any different than what is allowed under the current Forest Plan.

The DEIS states that an irreversible or irretrievable commitment of resources will not be made by the rulemaking. It should. Of importance here is an explanation of these commitments in the 2016 Forest Plan, which explained: "Irreversible commitments are decisions affecting nonrenewable resources, such as soils, minerals, plant and animal species, and heritage resources. Such commitments of resources are considered irreversible because the resource has deteriorated to the point that renewal can occur only over a long period of time or at a great expense, or the resource has been destroyed or removed. While the application of Land Use Designations (LUDs) allowing land-altering activities can indicate the potential for such commitments, the actual commitment to develop, use, or affect nonrenewable resources is made at the project level. The gradual decline in old growth habitat may be considered an irreversible commitment." Irreversible commitments should not be left to the discretion of a project and should be afforded the broader protection under the current 2001 Roadless Rule because of the long-term or permanent harm to habitat.

The push for changing the designation of land uses so that logging and other activities can take place through the Alaska Roadless Rule is also not necessary. The Council was informed that the Alaska Roadless Rule would allow access to cultural use of wood, additional access around municipal water and wastewater systems, biomass, and renewable energy; however, under the current 2001 Roadless Rule, there are already exceptions that allow these and other activities. Deputy Chief Forester Chris French recently testified before the Subcommittee on National Parks, Forests, and Public Lands that the Forest Service has been asked for more than 50 exceptions for activities within roadless areas in past years, for a variety of purposes, and that, to his knowledge, all had been approved.

There were renewable energy plan components, as well as transportation system corridor plan components, added to the 2016 Forest Plan. This Plan improved flexibility for activities and access on the Tongass National Forest, and when opportunities are insufficient, permits are being granted for exceptions. There is a built-in alternative for additional flexibility within the Forest Plan and, therefore, there is no need to make the Tongass National Forest exempt from the current 2001 Roadless Rule.

13. The Council encourages maintaining large blocks of old growth in order to offset future impacts of climate change to subsistence fish and wildlife.

There are two important considerations with regard to climate change, subsistence and the roadless areas of the Tongass National Forest. One, addressed at length in these comments, is the long-term benefits of maintaining the large tracts of old growth forest within the Tongass National Forest to slow the progress of a warming climate, which will have dire consequences for subsistence resources. The other is the effects of climate change to subsistence resources that are happening right now in real time. The Council has heard in recent years much public testimony about observations and concerns over changing conditions in our forest. These range from hotter drier summers affecting stream flows and temperature, lack of winter snow pack that has the same effect, but also extreme rainfall events that wash out spawning beds, cause landslides, and increase siltation. We also hear of changes happening to the forest itself, such as hotter drier summers causing insect infestations and warmer winters causing Yellow Cedar decline, both leading to defoliation. The combination of warmer weather and road development are also leading to the increase in invasive plant species. Maintaining large blocks of biologically diverse old growth forest is crucial to protecting subsistence resources on a large watershed level scale from the immediate consequences of a warming climate.

14. The Council supports the restoration and rehabilitation of the Tongass National Forest.

In light of the widespread human induced ecological changes in the Tongass National Forest and the progressive environmental degradation that has taken place in forested areas as a result of heavy logging and roading, the Council supports the restoration and rehabilitation of the Tongass National Forest to its natural state. While resource extraction may have been a rational priority in the 1950s when long-term contracts were negotiated (Ketchikan Pulp Corporation no bid contract signed in 1951, and Alaska Pulp Corporation no-bid contract signed in 1956, allowing

for over 13 billion board feet of timber harvest), current national and regional priorities have changed.

In Southeast Alaska, the important economic uses of the forest are: supporting the mixed subsistence-based economies of rural communities, a burgeoning tourism industry that relies on wild places and an unspoiled environment, and subsistence, sport, and commercial fishing that depends on healthy salmon returns to streams with natural water flow and aquatic rearing habitat for salmon in their early growth stages. Timber harvesting has become a vestigial economic activity employing few people that contributes little to the regional economy.

Restoring and rehabilitating the Tongass National Forest to its natural state is a Council goal. Decreasing the roadless area is contrary to this goal and will result in further environmental degradation.

15. The Council questions the roadless inventory used in the DEIS analysis, including how it compares the amount of suitable old growth between the six alternatives.

The Council would have preferred a full range of alternatives, including alternatives that would provide for corrections to errors in the current roadless designation and possible extension of the roadless designation. Our examination of the history of developing the roadless inventory indicates that a number of areas in the Tongass National Forest were left out of the 2001 inventory because they may have been designated for logging to supply timber to the Alaska Pulp contract. The Forest Service acknowledged this discrepancy in the 2003 FEIS. These areas may amount to as many as 350,000 acres. These areas are, in fact, roadless, and should be added to the inventory. These areas were included in the original TLMP Revision roadless inventory but deleted before the FEIS, even though they are still roadless. The Forest Service deleted them prematurely, after finishing site-specific EISs authorizing roads, but before any roads were built.

Inventoried Roadless Area	Place Name of Wrongly Deleted Area	VCUs*
Chichagof (#311)	Little Seal Cr.	230
	West Crab Bay and West Saltery Bay	231 232
	Broad Finger Cr. and Crab Cr.	233 246
	Broad Cr.	246
Hoonah Sound (#328)	Ushk Bay and Poison Cove	279
		280
		281
North Baranof (#330)	Saook Bay	294
East Kuiu (#245)	East Kuiu, including No Name Bay, Alvin Bay and Salt Lagoon	416
		417
		418
Neka Mt. (#342)	Neka Bay	201
Camden (#242)	Threemile Arm	419

*VCU = Value Comparison Unit

In addition, the Council believes that there may be other areas of the Tongass that were eroded early in the era of industrial timber development. In many areas, roads have been decommissioned and natural restoration and rehabilitation have taken place. We request that areas of the Tongass where no use of roads has taken place for 20 years be considered as additions to the roadless inventory. Examination of these areas would acknowledge that some developed areas may change back to roadless status. Areas should be evaluated on whether roads actually exist at this time and how closely these candidate areas exhibit and share the nine characteristics of the inventoried roadless areas found in the 2001 rule.

The Council questions the accuracy of the DEIS roadless inventory. We request that data and metadata be made available so that numbers presented can be independently verified. We also question the quantification of suitable old growth acres. Does suitable old growth acreages under different alternatives include the 350,000 acres listed above that are not in the roadless inventory? We cannot determine this from the DEIS.

Finally, since including the mistakenly omitted roadless acres (or excluding them) is a land use action that may significantly restrict subsistence uses, ANILCA Section 810 applies and its procedures need to be followed for this important amount of public land. The Council considers that, although the DEIS has not done any analysis of roadless classification of this area, opening these areas to roading and logging would likely have adverse effects on subsistence uses.

16. The Council believes the DEIS should report expenditures and returns from past timber harvest and road building, as well as projected economic expenditures and returns from anticipated timber harvest.

The DEIS needs to report expenditures and returns from past logging and road building done to date. There is a general perception that the industrial timber harvest that has taken place in Southeast Alaska was heavily subsidized by a Forest Service expenditure of public funds. Data presentation would either verify or disprove this perception. In any case, since the purpose of revising the 2001 Roadless Rule (should we say “eliminating it” as called for in the preferred alternative) is economic development, specifically of the timber industry, the DEIS needs to present a cost/benefit analysis of past logging and roadbuilding and an estimate of probable costs and benefits should the 2001 Roadless Rule be modified. The best information should be displayed in a chart by years that shows:

- a) Public expenditures for planning and timber harvest management
- b) Public expenditures for road building and road maintenance, and
- c) Cash return from timber sold

Finally, the DEIS should provide projected economic expenditures and returns from anticipated increased logging—the apparent objective of the exemption of Alaska to the 2001 Roadless Rule.

17. The Council believes roadbuilding has been detrimental to fish and fish habitat and new road building would do the same.

The Tongass National Forest has a long history with roadbuilding, particularly in conjunction with timber harvest. According to the State of Alaska Department of Transportation website, Prince of Wales Island alone contains more than 1,500 miles of roads, including 250 miles of paved or improved gravel roads that provides access between 10 communities. The total number of roads throughout the Tongass National Forest is not readily available. Currently, the Forest Service has inventoried over 3,600 fish crossing structures on 3,800+ miles of non-paved permanent roads and 900+ miles of temporary roads within the Tongass National Forest. Approximately 1,250 of these crossings are over anadromous fish streams, and 2,350 of the structures are over resident fish streams. On the anadromous fish streams, 187 of the inventoried culverts are classified as red pipes, meaning they are inadequate (by law) for anadromous fish passage. Further, 935 of the resident fish stream crossings are classified as red pipes. The estimated cost for removal and/or remediation of red pipes is between \$35,000 and \$120,000 per structure. This figure does not include subsequent potential stream restoration outside of the road corridor itself. Using the average cost of \$77,500 per structure, it will cost the Forest Service approximately \$6.5 to 14.5 million dollars to replace inadequate fish passage on anadromous fish streams on the Tongass National Forest alone. While many high priority stream crossings have been completed, there is still a backlog of inventoried red pipes on existing roads within the Tongass National Forest. The Council believes that adding new roads will only compound this issue.

Prior to the implementation of stream buffers, it was not unusual for logging to occur up to streambanks. The 100-foot stream buffer was implemented on the Tongass National Forest through the Tongass Timber Reform Act in 1990, well after the timber industry boom in the 1970s and 1980s in Southeast Alaska. Research has shown that stream buffers are critical for healthy fish populations. Without them, streambank erosion and sediment loading becomes problematic for aquatic species. Buffers are also important for regulating stream temperatures and for large wood recruitment that provides stream structure for spawning and rearing fish. At ANILCA Section 810 subsistence hearings for the Alaska Roadless Rule, subsistence users spoke out about the inadequacies of 100-foot stream buffers. Wind throw is a predominant problem with such narrow stream buffers, reducing the protections that they were intended to provide. Another point consistently heard from the public is how existing roads, particularly on steep slopes, that have not been adequately maintained continue to be problematic with respect to sediment loading. The Council shares the concerns expressed in these subsistence hearings and believes that current indirect effects paired with any new road building represents an adverse impact to subsistence users.

18. The Council does not support the proposed change in the Roadless Area Value and Characteristics.

At our Council meeting in Ketchikan, November 5 to 7, 2019, Deputy Chief Forester Chris French stated that the “Proposed Definitions”, including the nine Roadless Area Characteristics, came from The State of Alaska Citizens’ Advisory Committee. We question whether incorporating recommendations from this group is legal. Our reading of the Federal Advisory

Committee Act (FACA) indicates that a group needs to be authorized as a chartered FACA committee to provide this type of recommendation.

The Council notes that the proposed definitions depart drastically from the definitions found in the 2001 Roadless Rule. The DEIS does not show or describe the proposed changes or provide a rationale for changing definitions from those that have worked well for 18 years. The Roadless Area Characteristics from the 2001 Roadless Rule can be found at:

<https://www.govinfo.gov/content/pkg/FR-2001-01-12/pdf/01-726.pdf>, and is reproduced below:

“Roadless Area Values and Characteristics

Inventoried roadless areas considered in this rule constitute roughly one-third of all National Forest System lands, or approximately 58.5 million acres. Although the inventoried roadless areas comprise only 2% of the land base in the continental United States, they are found within 661 of the over 2,000 major watersheds in the nation (FEIS Vol. 1, 3–50) and provide many social and ecological benefits. As urban areas grow, undeveloped private lands continue to be converted to urban and developed areas, and rural infrastructure (such as roads, airports, and railways). An average of 3.2 million acres per year of forest, wetland, farmland, and open space were converted to more urban uses between 1992 and 1997. In comparison, 1.4 million acres per year were developed between 1982 and 1992. The rate of land development and urbanization between 1992 and 1997 was more than twice that of the previous decade, while the population growth rate remained fairly constant (FEIS Vol. 1, 3–12). In an increasingly developed landscape, large unfragmented tracts of land become more important. For example, from 1978 to 1994, the proportion of private forest ownerships of less than 50 acres nearly doubled (Birch, T.W. 1996. Private forest-land owners of the United States, 1994. Resource Bulletin NE-134. Radnor, PA: USDA Forest Service, Northeastern Experiment Station. 183 p). Subdivision and other diminishment of tract size of these lands can discourage long-term stewardship and conservation.

Inventoried roadless areas provide clean drinking water and function as biological strongholds for populations of threatened and endangered species. They provide large, relatively undisturbed landscapes that are important to biological diversity and the long-term survival of many at risk species. Inventoried roadless areas provide opportunities for dispersed outdoor recreation, opportunities that diminish as open space and natural settings are developed elsewhere. They also serve as bulwarks against the spread of non-native invasive plant species and provide reference areas for study and research (FEIS Vol. 1, 1–1 to 1–4).”

The following values or features often characterize inventoried roadless areas (FEIS Vol. 1, 3–3 to 3–7):

1. *“High quality or undisturbed soil, water, and air. These three key resources are the foundation upon which other resource values and outputs depend.*

2. *Healthy watersheds catch, store, and safely release water over time, protecting downstream communities from flooding; providing clean water for domestic, agricultural, and industrial uses; helping maintain abundant and healthy fish and wildlife populations; and are the basis for many forms of outdoor recreation. Sources of public drinking water. National Forest System lands contain watersheds that are important*
3. *sources of public drinking water. Roadless areas within the National Forest System contain all or portions of 354 municipal watersheds contributing drinking water to millions of citizens. Maintaining these areas in a relatively undisturbed condition saves downstream communities millions of dollars in water filtration costs. Careful management of these watersheds is crucial in maintaining the flow and affordability of clean water to a growing population. Diversity of plant and animal communities.*
4. *Roadless areas are more likely than roaded areas to support greater ecosystem health, including the diversity of native and desired nonnative plant and animal communities due to the absence of disturbances caused by roads and accompanying activities. Inventoried roadless areas also conserve native biodiversity by serving as a bulwark against the spread of nonnative invasive species.*
5. *Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land. Roadless areas function as biological strongholds and refuges for many species. Of the nation's species currently listed as threatened, endangered, or proposed for listing under the Endangered Species Act, approximately 25% of animal species and 13% of plant species are likely to have habitat within inventoried roadless areas on National Forest System lands. Roadless areas support a diversity of aquatic habitats and communities, providing or affecting habitat for more than 280 threatened, endangered, proposed, and sensitive species. More than 65% of all Forest Service sensitive species are directly or indirectly affected by inventoried roadless areas. This percentage is composed of birds (82%), amphibians (84%), mammals (81%), plants (72%), fish (56%), reptiles (49%), and invertebrates (36%).*
6. *Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized classes of dispersed recreation. Roadless areas often provide outstanding dispersed recreation opportunities such as hiking, camping, picnicking, wildlife viewing, hunting, fishing, cross-country skiing, and canoeing. While they may have many Wilderness-like attributes, unlike Wilderness the use of mountain bikes, and other mechanized means of travel is often allowed. These areas can also take pressure off heavily used wilderness areas by providing solitude and quiet, and dispersed recreation opportunities.*
7. *Reference landscapes. The body of knowledge about the effects of management activities over long periods of time and on large landscapes is very limited. Reference landscapes of relatively undisturbed areas serve as a barometer to measure the effects of development on other parts of the landscape. Natural appearing landscapes with high scenic quality.*
8. *High quality scenery, especially scenery with natural-appearing landscapes, is a primary reason that people choose to recreate. In addition, quality scenery contributes directly to real estate values in nearby communities and residential areas.*

9. *Traditional cultural properties and sacred sites. Traditional cultural properties are places, sites, structures, art, or objects that have played an important role in the cultural history of a group. Sacred sites are places that have special religious significance to a group. Traditional cultural properties and sacred sites may be eligible for protection under the National Historic Preservation Act. However, many of them have not yet been inventoried, especially those that occur in inventoried roadless areas.*
10. *Other locally identified unique characteristics. Inventoried roadless areas may offer other locally identified unique characteristics and values. Examples include uncommon geological formations, which are valued for their scientific and scenic qualities, or unique wetland complexes. Unique social, cultural, or historical characteristics may also depend on the roadless character of the landscape. Examples include ceremonial sites, places for local events, areas prized for collection of non-timber forest products, or exceptional hunting and fishing opportunities.”*

The Alaska Roadless Rule DEIS proposes the following:

- “Roadless Area Characteristics -- Resources or features that are often present in and characterize Alaska Roadless Areas, including*
1. *Physical Environment -- Roadless areas provide high-quality or undisturbed soil, water, and air.*
 2. *Water -- Roadless areas provide a variety of water resources including public drinking water sources, fish and aquatic resources, and hatchery aquatic resources.*
 3. *Diversity -- Roadless areas support a diversity of plant and animal communities including stands of old-growth forests.*
 4. *Habitat -- Roadless areas are expansive areas where high-quality intact habitat exists and ecosystems function with all their native species and components. Roadless areas serve as habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land.*
 5. *Remoteness -- Roadless areas provide economic opportunity due to rich primitive, semi-primitive motorized, and semi-primitive non-motorized classes of dispersed recreation.*
 6. *Landscape -- Roadless areas provide reference landscapes of relatively undisturbed areas that serve as a barometer to measure the effects of development on other parts of the landscape.*
 7. *Scenery -- Roadless areas have natural-appearing landscapes with high-scenic qualities that people value.*
 8. *Cultural -- Roadless areas are rich in traditional cultural properties and sacred sites. In Alaska indigenous peoples have been on national forests for more than 10,000 years and the forests have cultural significance.*
 9. *Locally-unique characteristics. Roadless areas represent geographic areas with additional locally-unique characteristics specific to Alaska including: (a) important source of subsistence resources including terrestrial wildlife, waterfowl, mammals, fish, and plant-based resources; (b) rich habitat that supports multiple species of fish for personal, subsistence, sport, recreation, and commercial harvest; and (c) supports*

diverse economic opportunity that is especially important for rural community well-being."

In general, the proposed changes lack the specificity of the existing original legal definitions in the 2001 Roadless Rule and greatly weaken the definitions as plan and management tools. The changes are obvious, so we will not spend much time examining them. We do note, however, that the original 2001 definitions in #4 discussed the importance of roadless areas for threatened and endangered species (note that the Alexander Archipelago wolf has been a species of concern in Game Management Unit 2) and #8 recognized traditional cultural properties and sacred sites. Changes to #8 show disrespect to Southeast Alaska recognized Tribes and their cultural traditions.

19. The Council questions the use of recommendations from the State of Alaska working group.

The Council raised this issue in our July 10, 2019 comment letter to Alaska Regional Forester David Schmid, Tongass Forest Supervisor Earl Stewart, and Region 10 Planning Director Chad VanOrmer. Please refer to these comments on the FACA applicability. These comments are appended and included as part of our Council comments on the Alaska Roadless Rule DEIS. In essence, the Council questions relying on the State of Alaska working group recommendations in drafting the DEIS. We believe that this is a FACA violation and that the DEIS team played fast and loose in accepting and incorporating recommendations from this and perhaps other cooperating groups. FACA is designed to encourage transparent decision making. Without FACA protections, planning processes, while claiming to be open processes, can all too easily be high-jacked by special vested interests that stand to gain financially or otherwise when the federal government accepts their recommendations. The Council questions the standing of the working group and the apparent deference being given to this special interest group at the expense of the residents of Southeast Alaska.

20. The Council believes that the Southcentral Regional Advisory Council should have been engaged in the public process in order to comment on how the Proposed Rule would affect the Chugach National Forest

Chapter 2 of the DEIS (Alternatives including the Proposed Action) on page 2-3 includes "Proposed Alaska Roadless Boundary Correction and Modification Provisions." This states that Alternatives 2-5 would include administration correction and modification provisions for inclusion in the proposed Alaska Roadless Rule to provide for future boundary and classification changes. This would apply to both the Tongass and Chugach National Forests. Further, if Alternative 6 were implemented, the provision would only apply to the Chugach National Forest. On page 1-2 of the DEIS, under Scope and Applicability, it is further stated that:

"The one exception is that a single administrative provision concerning boundary corrections and modifications would be made applicable to IRAs designated by

the 2001 Roadless Rule on the Chugach National Forest to align practices with other states that have state-specific roadless rules (Idaho and Colorado). This provision is administrative in nature and does not have any environmental effects."

While the change may be administrative and, therefore, not have environmental effects, it is in essence a change under the rulemaking process (stated in Appendix G under Alternative 6 on page G-39):

§294.51 Chugach National Forest.

"(a) Administrative correction or modification of inventoried roadless area designations on the Chugach National Forest may be made as follows:

(1) Administrative corrections to boundaries. The Regional Forester for the Alaska Region may issue administrative corrections to the boundaries of an Inventoried Roadless Area after a 30-day public notice and opportunity to comment period. Administrative corrections are limited to adjustments that remedy clerical errors, typographical errors, mapping errors, improvements in mapping technology, conformance to statutory or regulatory changes, or incorporation of changes due to land exchanges.

(2) Administrative modifications to Classifications and Boundaries. The Regional Forester for the Alaska Region may issue modifications to the classifications and boundaries of an Inventoried Roadless Area after a 45-day public notice and opportunity to comment period."

The Chugach National Forest falls within the Southcentral Region of the Federal Subsistence Management Program, and has its own Regional Advisory Council. During the scoping period for the Alaska Roadless Rule, comments were received specifically requesting the Chugach National Forest continue to be protected under the 2001 Roadless Rule (Written Public Comment Summary, February 2019). It is unclear how the Forest Service and/or the Secretary of Agriculture plan to engage in the public process of rulemaking, but to date there does not appear to be any engagement outside of what occurred during the initial scoping period. The Southcentral Regional Advisory Council, as a FACA committee, should have been consulted about potential changes to the 2001 Roadless Rule as it applies to the Chugach National Forest.

21. The Council would have appreciated more than two hours with the Alaska Roadless Rule team during their 2019 Fall meeting.

The Council has serious concerns about the effects on subsistence users caused by changes to the 2001 Roadless Rule. It is important to note that the purpose and need statement for the DEIS says that a "durable and long lasting regulation" for the management of roadless areas in the Tongass National Forest is the desired outcome of this process. Given the expected durability and long life of the proposed exemption of the 2001 Roadless Rule, the impacts to subsistence become more acute. Unfortunately, this process has been on a fast-track ever since the State of Alaska filed its petition, and the Council and public have been frustrated in their efforts to

analyze and respond to the DEIS. At our Council meeting on November 5-7, 2019, we had an opportunity to question Deputy Chief Forester Chris French and Region 10 Planning Director Chad VanOrmer in order to help craft our comments on the proposed rule. Given the time constraints on the Alaska Roadless Rule team, only two hours were allotted for their presentation and our questions. We feel that this was inadequate given the importance and complexity of the issues. The Council also heard testimony from members of the public attending informational meetings and the subsistence hearings (which were happening while the Council was meeting the week of November 4th) who also felt that they were not given enough time to “digest” the information presented and provide more substantial comments.

22. The Council believes the Alaska Roadless Rule planning effort should remain in the Alaska Region.

The Council questions the reasoning of taking this important rule making and NEPA planning effort out of the hands of the Forest Service’s Regional Forester for Alaska Region and the Tongass National Forest Supervisor’s office. The Council appreciates the continuing efforts of the Regional Forester and Tongass National Forest Supervisor’s office in supporting subsistence uses of fish and wildlife, and in developing productive relationships with the Southeast Regional Advisory Council, the Southeast Region’s Federally recognized Tribes, and the region’s rural communities. The residents of Southeast Alaska do what they can to keep the Council informed and aware of Forest Service actions and policies, and they solicit our input on important changes and policies. While the Council clearly does not always agree with our local Forest Service’s actions and directions, at the end of the day we are all Southeast Alaska residents and share our love for the amazing, though stressed, national forest and the sustainable resources it provides. The DEIS and the planning effort has had only limited involvement from our Region 10 and Tongass National Forest staff. This diminishment of authority and responsibility is highly unusual. The rule revision has been directed from Washington D. C. with the Secretary of Agriculture, Mr. Sonny Perdue, as the deciding officer. This speaks volumes about how this planning effort disrespects the residents of Southeast Alaska, the very people that will have to live with the detrimental, and entirely unnecessary, effects caused by changing the 2001 Roadless Rule. We also lament the disrespect shown to our Alaska-based Forest Service staff and hope that this unnecessary usurpation of their authority will not damage their relationships with the residents of Southeast Alaska and the organizations that represent them.

The Council would like to thank you for the time you and your team have taken to consider our comments on the Alaska Roadless Rule DEIS and the proposed change to the Alaska Roadless Rule. The Council feels that the DEIS is inadequate and should be withdrawn based on the failures outlined. In lieu of a withdrawal, we would appreciate the opportunity to remain engaged throughout the next steps, and, as a FACA committee, remind you that we are here to help ensure that the needs of the subsistence users in Southeast Alaska are met.

Sincerely,



Donald Hernandez
Chair

Enclosures:

March 5, 2019 Southeast Council letter to Roadless Rule team
July 10, 2019 Southeast Council letter to Forester David Schmid
November, 19, 2019 Tribes letters to the Alaska Delegation (3)
November 19, 2018 Tribes letter to Secretary Perdue

cc: Federal Subsistence Board

Southeast Alaska Subsistence Regional Advisory Council Members
Thomas Doolittle, Acting Assistant Regional Director, Office of Subsistence Management
Greg Risdahl, Acting Deputy Assistant Regional Director
Office of Subsistence Management
Suzanne Worker, Acting Subsistence Policy Coordinator
Office of Subsistence Management
George Pappas, State Subsistence Liaison, Office of Subsistence Management
Tom Kron, Acting Supervisory Program Analyst, Office of Subsistence Management
DeAnna Perry, Southeast Alaska Subsistence Regional Advisory Council Coordinator
Ben Mulligan, Deputy Commissioner, Alaska Department of Fish and Game
Mark Burch, Special Projects Coordinator, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record

November 19, 2019

The Honorable Lisa Murkowski
522 Hart Senator Office Building
Washington, DC 20510
Fax: (202)-224-5301

RE: Alaska Roadless Rule

Since time immemorial, we, the indigenous peoples of Southeast Alaska, have enjoyed an intimate connection with *Haa Aani* (Our Land). The land and waters of our homelands are integral to, and inseparable from, our culture, community vibrancy, rural subsistence lifestyles, and economic opportunity. The signatory tribes have their roots in the Tongass National Forest and have continued to defend the integrity of our ancestral lands.

The granting of the State of Alaska's petition for an Alaskan exemption to the 2001 National Roadless Conservation Rule on the Tongass in 2018, without consulting any affected Native peoples, represents the most controversial and potentially destructive assault on our way of life to date. It was clear from the outset, that an Alaska Specific Roadless Rule would not leave current roadless protections in place.


In an unprecedented show of unity, six federally recognized tribal governments stepped forward to engage as Cooperating Agencies in the Alaska Roadless Rule process with the State of Alaska and consult with the US Department of Agriculture. While some Tribal Cooperating Agencies advocated for the No Action alternative, others were working on finding a compromise that best fit their respective communities. No Tribal Cooperating Agency advocated for full-exemption, and their comments and participation were ignored and disregarded.

Recently revelations that a full-exemption of the 2001 Roadless Rule may become the preferred alternative have confirmed our worst fears - the feedback of Tribes, consensus of all Alaskans, and majority of public comments received during the public scoping process were disregarded in their entirety. Blatant disregard for any of the needs of the Tribal Cooperating Agencies disregards the mandates of the NEPA process. The only voice being used "to the maximum extent possible" is the voice of industry and lobbyists looking to maximize the short-term gains of extraction industries in the Tongass National Forest.


Our tribal governments aim to work constructively with all elected officials of any political party without partisanship. We aim to be collaborative partners, working together in the best interest of Alaska- our homelands. Yet today we are challenged by our disagreement with elected officials that support the proposed full exemption of the Tongass National Forest from the Roadless Rule. Any elected official in Alaska who supports a full exemption, is disregarding their constituents, undermining the public process, and ignoring the sovereign Tribal governments.

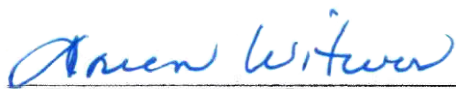
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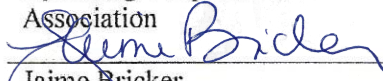

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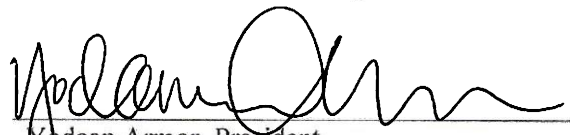

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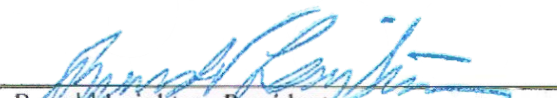

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Skagway Traditional Council



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November 19, 2019

The Honorable Dan Sullivan
United States Senate
702 Hart Senator Office Building
Washington, DC 20510
Fax: (202)-224-6501

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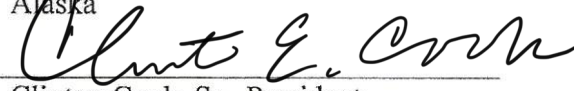
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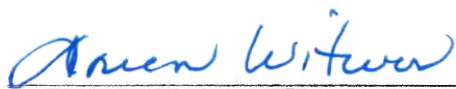
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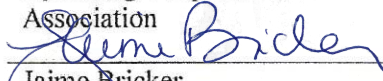

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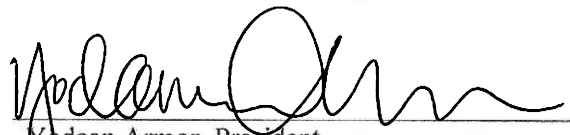

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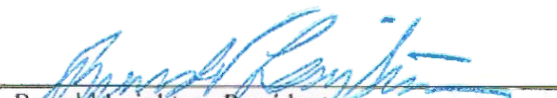

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Lee Wallace, President
Organized Village of Saxman


John Buller, President
Yakutat Tlingit Tribe

November 19, 2019

The Honorable Don Young
Committee on Natural Resources
U.S. House of Representatives
2314 Rayburn House Office Building
Washington, DC 20515

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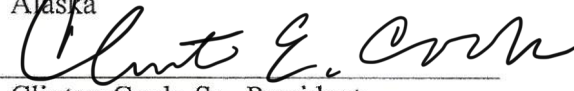
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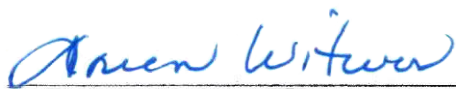
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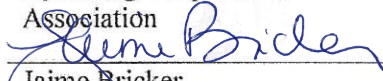

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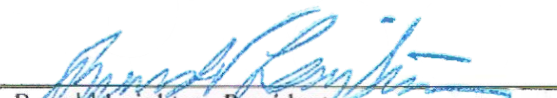

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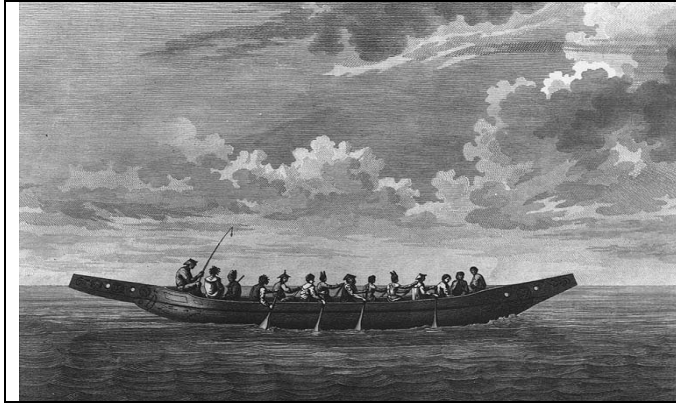

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***Southeast Alaska
Subsistence Regional
Advisory Council***

**Don Hernandez, Chairman
1011 E. Tudor Road, MS121
Anchorage, Alaska 99503-6199**

RAC SE 20011.DP

APR 15 2020

Alaska Roadless Rule
USDA Forest Service, Alaska Region
Ecosystem Planning and Budget Staff
P.O. Box 21628
Juneau, AK 99802-1628

USDA - USFS Regional Office
ATTN: Regional Forester, Dave Schmid
P.O. Box 21628
Juneau, AK 99802-1628

USDA - USFS Tongass National Forest
ATTN: Forest Supervisor, Earl Stewart
648 Mission Street
Ketchikan, AK 99901-6591

RE: Request to Suspend Decisions on Roadless Rulemaking

Dear Mr. Schmid, Mr. Stewart, and Roadless Rulemaking Team:

The Southeast Alaska Subsistence Regional Advisory Council (Council) wishes to further comment on the pending Alaska Roadless Rulemaking process. As a reminder, the Council was formed under Title VIII of the Alaska National Interests Lands Conservation Act (ANILCA). ANILCA Section 805(a) requires the establishment of a Regional Advisory Council in each subsistence resource region in Alaska and authorizes each Council to review and evaluate regulations, policies, management plans, and other matters related to subsistence within each region. The Council is chartered under the Federal Advisory Committee Act.

The Council had a noticed meeting via teleconference March 24-26, 2020. At this meeting, we heard updates on the Alaska Roadless Rulemaking from USDA – Forest Service (Forest Service) economist Nicole Grewe and Regional Forester Dave Schmid.

The Council strongly believes that all final rulemaking and planning decisions should be suspended in this time of national health and safety emergency. As we write, three-quarters of Americans are under stay-at-home orders to limit the spread of the coronavirus. The prognosis has the situation getting far worse than what we have already experienced to date, with the likelihood of millions of our fellow citizens getting sick and hundreds of thousands dying. Our economy is in tatters because of the pandemic, and more than 30% of our fellow citizens may be unemployed and without income. At this critical time, as Americans, we need to focus on supporting our fellow citizens, protecting our communities, and limiting the suffering of this crisis.

This is simply not the time to continue with a major rulemaking that will affect Alaskans for decades to come. Proceeding with this rulemaking under an extremely accelerated schedule, even by your own agency's standards, according to regional Forest Service staff, is not essential work and is not in the interests of those who depend on the resources of the Tongass National Forest.

We are also concerned with the safety of Forest Service employees who should be restricting unnecessary activities in this emergency and focusing on stewardship of our forest resources. The Forest Service, with its 30,000 employees and hard-won expertise in disaster management, should rightfully redirect the agency to do all it can to help our nation in these perilous times.

Lastly, we ask that you forward this request to Secretary of Agriculture Sonny Perdue, at your earliest possible convenience. It is our understanding that the Final Environmental Impact Statement and Record of Decision in this matter is being formulated and the Council would appreciate it if you would share its concerns with the Secretary at this time.

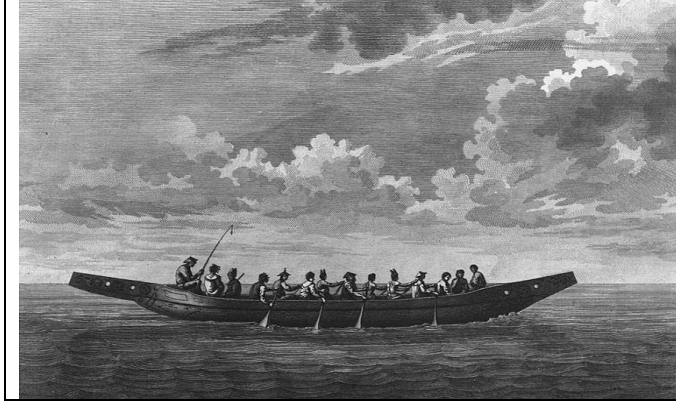
Thank you for considering our request. Any questions regarding this letter can be addressed through our Council Coordinator, DeAnna Perry, at 907-586-7918, deanna.perry@usda.gov.

Sincerely,



Donald Hernandez
Chair

cc: Federal Subsistence Board
Southeast Regional Advisory Council Members
DeAnna Perry, Southeast Alaska Subsistence Regional Advisory Council Coordinator
Sue Detwiler, Assistant Regional Director, Office of Subsistence Management
Thomas Doolittle, Deputy Assistant Regional Director, Office of Subsistence Management
Suzanne Worker, Acting Subsistence Policy Coordinator,
Office of Subsistence Management
George Pappas, State Subsistence Liaison, Office of Subsistence Management
Tom Kron, Acting Coordination Division Chief, Office of Subsistence Management
Thomas Whitford, Regional Subsistence Program Leader, U.S. Forest Service
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Interagency Staff Committee
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***Southeast Alaska
Subsistence Regional
Advisory Council***

**Don Hernandez, Chairman
1011 E. Tudor Road, MS121
Anchorage, Alaska 99503-6199**

RAC SE 20013.DP

APR 16 2020

Alaska Roadless Rule
USDA Forest Service, Alaska Region
Ecosystem Planning and Budget Staff
P.O. Box 21628
Juneau, AK 99802-1628

USDA - USFS Regional Office
ATTN: Regional Forester, Dave Schmid
P.O. Box 21628
Juneau, AK 99802-1628

USDA - USFS Tongass National Forest
ATTN: Forest Supervisor, Earl Stewart
648 Mission Street
Ketchikan, AK 99901-6591

**RE: PROPOSED ALASKA ROADLESS RULEMAKING
- REQUEST SUSPENSION OF DRAFT ENVIRONMENTAL IMPACT STATEMENT
- REQUEST FOR FURTHER SUBSISTENCE HEARINGS AFTER
DETERMINATION**

Dear Mr. Schmid, Mr. Stewart, and Roadless Rulemaking Team:

The Southeast Alaska Subsistence Regional Advisory Council (Council) wishes to further comment on the pending Alaska Roadless Rulemaking process. As a reminder, the Council was formed under Title VIII of the Alaska National Interests Lands Conservation Act (ANILCA). ANILCA Section 805(a) requires the establishment of a regional advisory council in each subsistence resource region in Alaska and authorizes each council to review and evaluate

regulations, policies, management plans, and other matters related to subsistence within each region.

The Council, which is a committee under the Federal Advisory Committee Act, or FACA, met in a publicly noticed meeting via teleconference March 24-26, 2020. At this meeting, we heard updates on the Alaska Roadless Rulemaking and the status of the Final Environmental Impact Statement (FEIS) for the Rule from USDA – Forest Service (Forest Service) economist Nicole Grewe and Regional Forester Dave Schmid. The Council was advised that it could continue to provide input on this matter outside the official comment period. As the FEIS is still being finalized, we appreciate your consideration of our comments and information in this letter. We look forward to these comments being shared with Secretary of Agriculture Sonny Perdue for consideration and incorporation into the final version of the FEIS and/or Record of Decision.

The Council has provided extensive comments on the Draft Environmental Impact Statement (DEIS) for the proposed Alaska Roadless Rulemaking and on the overall planning process a number of times over that past two years. Our previous comments from December 12, 2019, July 10, 2019, and March 5, 2019 are appended to this letter. The Council's primary concern has been to ensure that the rulemaking process and your decision-making process follow the requirements established in ANILCA Sec. 810. These legal requirements are binding and are reflected in the Forest Service Handbook 2090.23 titled, "Subsistence Management and Uses Handbook," Chapter 10 - Components of an ANILCA Section 810 Evaluation.

Very briefly, ANILCA Sec. 810, 16 U.S.C. § 3120, calls for four sequential steps to take place with respect to land management actions and plans in providing subsistence protections in land management actions:

1. Thorough presentation and analysis of subsistence uses in the affected area. In Southeast Alaska, this would include quantitative data on harvest and use levels, map data showing use areas and traditional territories, and cultural data on subsistence communities. This analysis would examine the specific areas affected by the proposed land use action, the level of impact on specific subsistence resources, and the communities dependent on the affected resources.
2. The presentation and analysis required in #1 shall form the basis for making a finding of whether or not the proposed action may have a significant possibility of a significant restriction on subsistence uses. This finding must be made at the DEIS level. If there is a finding of a significant possibility of a significant restriction, then there are three possible actions that must follow. These are: a) the proposed action must be modified to remove the significant restriction finding; b) the process must be stopped for that action and the action prohibited; or c) after notifying the Regional Forester and requesting concurrence, proceed to Notice and Hearings.¹

¹ U.S. Forest Service. 2006. FSH 2090.23 – Subsistence Management and Uses Handbook. Chapter 10- Components of An ANILCA Section 810 Evaluation at 3.

3. Subsistence hearings require the federal agency to truth its finding of significant restriction with subsistence users, and modify a finding based on what is heard from affected communities and individuals.² These subsistence hearings must be held in person, in the affected communities.
4. The final step is to make a determination.³ Here, the deciding official must determine that the proposed action is necessary, uses the minimal amount of land needed for the action, and mitigates subsistence impacts.

We note that these steps are sequential. A subsistence finding cannot be made without presentation and analysis of information on subsistence; subsistence hearings cannot be held before a finding is made; a decision that the proposed action is necessary cannot be made without following the first three steps.⁴

The Council finds that the Forest Service has willfully and intentionally refused to follow these procedures under ANILCA Sec. 810. The meetings held by the Forest Service after the issuance of the roadless DEIS were not subsistence hearings as required by law. People who spoke at these meetings pointedly told of the importance of subsistence in their lives and in their communities. But, because the DEIS did not include existing data and reports on subsistence uses and did not make a finding of significant restriction, speakers could not address how the land management action would affect their specific subsistence use patterns. Forest Supervisor Schmid has promised that the roadless FEIS would make a finding or determination on subsistence. However, even if this does occur, it will be out of sequence, and done without the proper consultation with subsistence users required by law, and will therefore fail to satisfy ANILCA requirements.

Because the Forest Service has not followed the clearly stated provisions of ANILCA Sec. 810 and the process reflected in the Forest Service's own handbook, the Council finds the DEIS inadequate and requests that the EIS process be suspended until a finding is issued and a new round of subsistence hearings on that finding is conducted in order to comply with the Section 810 of ANILCA. Because subsistence hearings must be held in the communities affected, the hearings cannot be held, and the NEPA process cannot be completed, until after it is safe for subsistence users and the Forest Service staff to travel and meet in person. At that point, a supplemental EIS according to NEPA must be issued.⁵ We note that ANILCA provides protection for subsistence uses on Federal public land. Willfully ignoring its provisions and denying Alaskan Federally qualified subsistence users and communities to weigh in on land use actions that will affect their lives is unacceptable.

Finally, we ask that you forward this request to Secretary of Agriculture Sonny Perdue, at your earliest possible convenience. It is our understanding that the FEIS and Record of Decision in

² 16 U.S.C. § 3120(b) ("If the Secretary is required to prepare an environmental impact statement . . . he shall provide the notice and hearing and include the findings required by subsection (a) as part of such environmental impact statement.")

³ 16 U.S.C. § 3120 (a)(3)

⁴ See U.S. Forest Service. 2006. FSH 2090.23; see also, e.g., *Kunaknana v. Clark*, 742 F.2d 1145, 1151 (9th Cir. 1984) ("[F]irst, the agency determines whether the contemplated action may significantly restrict subsistence use; if it may, the agency must comply with the notice and hearing procedures.").

⁵ 40 C.F.R. § 1502.9

this matter is being formulated and the Council would appreciate it if you would share its concerns with the Secretary at this time.

Thank you for accepting these additional Council comments. Any questions regarding this letter can be addressed through our Council Coordinator, DeAnna Perry, at 907-586-7918, deanna.perry@usda.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald Hernandez", with a stylized flourish at the end.

Donald Hernandez
Chair

Enclosures

cc: Federal Subsistence Board
Southeast Regional Advisory Council Members
DeAnna Perry, Southeast Alaska Subsistence Regional Advisory Council Coordinator
Sue Detwiler, Assistant Regional Director, Office of Subsistence Management
Thomas Doolittle, Deputy Assistant Regional Director, Office of Subsistence Management
Suzanne Worker, Acting Subsistence Policy Coordinator,
Office of Subsistence Management
George Pappas, State Subsistence Liaison, Office of Subsistence Management
Tom Kron, Acting Coordination Division Chief, Office of Subsistence Management
Thomas Whitford, Regional Subsistence Program Leader, U.S. Forest Service
Ben Mulligan, Special Assistant to the Commissioner, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record



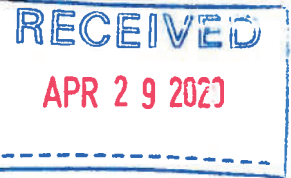
United States
Department of
Agriculture

Forest
Service

Alaska Region

P.O. Box 21628
Juneau, AK 99802-1628

File Code: 1010; 1560
Date: April 20, 2020



Dear Mr. Hernandez

Thank you for your April 15, 2020 letter requesting a suspension to all rulemaking and planning decisions, specifically the Alaska roadless rulemaking effort. I understand and sympathize how the COVID-19 pandemic has impacted American lives and work, including those in southeast Alaska. I also share your sentiments about the importance of the Tongass National Forest to residents choosing to make southeast Alaska home. At this time, we are continuing our work on several planning efforts, including the Alaska Roadless Rule, in order to ensure continuity of our programs across the Region so that a range of natural resource conservation options are available to support the economic and social well-being of our communities.

At this stage, there are no formal public comment periods remaining for the development of the Alaska roadless rule. Therefore, continuation of rulemaking efforts should not negatively impact any public opportunity to formally participate in the process. I do still encourage individuals and organizations to engage with the Forest Service on the Alaska Roadless Rulemaking effort in a way that is meaningful for them and better informs the process.

In addition, my standing invitation to consult with federally-recognized tribes and Alaska Native corporations is ongoing, and the Alaska Region remains committed to sharing information on the status of the rulemaking process through routine updates on our website. Tribal and corporation leaders seeking to consult with Alaska Region leaders may continue to request consultation by contacting their local line officers or by contacting Melinda Hernandez Burke, Tribal Relations Program Manager, at (907) 586-7089 or melinda.hernandezburke@usda.gov.

Finally, I sincerely appreciate your concern for our agency workforce. The remaining tasks toward the final rule is largely internal to the US Department of Agriculture (USDA) and Forest Service as we enter the clearance process at the national level. We continue to assess and balance our agency values of safety and service. At this time, the majority of our workforce in the Alaska Region is working from home and doing its part to dampen the impacts of COVID-19 to communities in Alaska.

I hope this letter finds you and your community safe and healthy. If you have any questions regarding my response, please contact Melinda Hernandez Burke at (907) 586-7089 or via email at melinda.hernandezburke@usda.gov.

Sincerely,

DAVID E. SCHMID
Regional Forester





Federal Subsistence Board

1011 East Tudor Road, MS 121
Anchorage, Alaska 99503 - 6199



FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS

FOREST SERVICE

OSM 20019.DP

APR 21 2020

Sonny Perdue
United States Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

RE: FACA COMMITTEE COMMENTS ON PROPOSED ALASKA ROADLESS RULEMAKING

Dear Secretary Perdue:

The Federal Subsistence Board received a copy of two letters from the Southeast Alaska Subsistence Regional Advisory Council (Council). These letters were sent to representatives of the USDA-Forest Service (Forest Service) and they provide time-sensitive comments regarding the proposed changes to the Alaska Roadless Rule (Proposed Rule). The Council would like to provide this same information to you.

For years, this Council has reviewed and evaluated management plans for the Tongass National Forest in accordance with its responsibilities under the Alaska National Interest Lands Conservation Act and its Federal Advisory Committee Act obligations. The Council continues its commitment to provide information and comments on the development, amendment, and revisions of land and resource management plans; and, to represent the interests of Federal subsistence users regarding proposed regulations that may alter their ability to harvest and use resources from the Tongass National Forest.

At its recent meeting in March, the Council was advised that the Final Environmental Impact Statement and Record of Decision on this matter are currently being drafted. The Council feels the information contained in the attached letters is important for you to consider while deliberating the final decision documents in this matter.

Thank you for considering the Council's requests and comments on this issue.

Sincerely,

Anthony Christianson
Chair

Enclosures

cc: Federal Subsistence Board
Southeast Regional Advisory Council Members
DeAnna Perry, Southeast Alaska Subsistence Regional Advisory Council Coordinator
Sue Detwiler, Assistant Regional Director, Office of Subsistence Management
Thomas Doolittle, Deputy Assistant Regional Director, Office of Subsistence Management
Suzanne Worker, Acting Subsistence Policy Coordinator, Office of Subsistence Management
George Pappas, State Subsistence Liaison, Office of Subsistence Management
Tom Kron, Acting Coordination Division Chief, Office of Subsistence Management
Thomas Whitford, Regional Subsistence Program Leader, U.S. Forest Service
Ben Mulligan, Special Assistant to the Commissioner, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record



File Code: 1010
Date: May 29, 2020

Mr. Don Hernandez
Chairman
1011 E. Tudor Road, MS121
Anchorage, Alaska 99503-6199

Dear Mr. Hernandez:

Thank you for your April 16, 2020 letter requesting a suspension to the development of an Alaska Roadless Rule final environmental impact statement (FEIS) and also recommending additional subsistence hearings. I appreciate and value Southeast Alaska Subsistence Regional Advisory Council's expertise, knowledge, and role in reviewing and evaluating federal regulations, policies, and land management plans, and I share your appreciation for Alaska National Interest Land Claims Settlement Act (ANILCA), Section 810 guidance ensuring subsistence protections in federal land management actions.

I value the council's ongoing participation in the Alaska Roadless Rulemaking project. I assure you the Alaska Roadless Rule interdisciplinary team and Alaska Region leadership have carefully reviewed the council's comments submitted during December 2019, July 2019, and March 2019, in addition to more recent letters submitted during April 2020. While the final rulemaking process has concluded all of its public comment periods, the Alaska Region will continue to provide status updates including any significant new developments as the FEIS and final Alaska Roadless Rule progress through the federal regulatory clearance process.

Please extend my appreciation to the full council for their ongoing concern regarding the Alaska Roadless Rule project, Southeast Alaska subsistence resources, and ANILCA, Section 810, subsistence-related requirements. If you have any further questions regarding my response, please contact Melinda Hernandez Burke, Tribal Relations Liaison, at (907) 586-7089 or melinda.hernandezburke@usda.gov.

Sincerely,

DAVID E. SCHMID
Regional Forester

cc: Nicole Grewe

