



Southeast Alaska Conservation Council

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sent via email

August 26, 2019

Ketchikan Supervisor's Office
attn: Moderate Vulnerability Karst Amendment
Tongass National Forest
Ketchikan, AK
comments-alaska-tongass@usda.gov

re: MVK Amendment

Acting Forest Supervisor Troy Heithecker:

On July 25, 2019, the Forest Service initiated a scoping period on a proposed amendment to the 2016 Tongass Land Management Plan (TLMP), which removes existing forest plan limits (S-YG-KC-02) for how much young growth is operable for logging on moderate vulnerability karst lands. The Forest Service also proposes to amend Standard S-YG_KC-03 to allow clearcutting "on lands identified as low and moderate vulnerability karst following the guidelines in Appendix H and using an interdisciplinary process to determine the management prescription to maintain the natural processes and productivity of the karst land scape." Since the 30-day scoping period ended on Saturday, August 24, the Southeast Alaska Conservation Council (SEACC) timely submits these scoping comments on the following business day, Monday, August 26, 2019.

The Proposed Amendment's Potential Cumulative Impacts

We disagree with the agency's conclusion that categorically excluding the proposed amendment from review under the National Environmental Policy Act (NEPA) is appropriate because "this narrow amendment . . . would not . . . propose ground-disturbing activities." Before concluding that a proposed action qualifies for a categorical exclusion, the Forest Service must evaluate the direct impacts of the action, as well as whether the action relates "to other actions with individually insignificant but cumulatively significant impacts." See 40 C.F.R. § 1508.27(b)(7); Forest Service Handbook § 1909.15, Ch. 31.3 ("Scoping should . . . reveal any past, present, or reasonably foreseeable future actions with the potential to create uncertainty over the significance of cumulative effects."). SEACC need only show the "potential for cumulative impact" not "what cumulative impacts would occur." See *Te-Moak Tribe of W. Shoshone of Nev. v. U.S. Dep't of Interior*, 608 F.3d 592, 605 (9th Cir. 2010).

According to the July 24, 2019 scoping letter, "[t]his one standard (S-YG-KC-02) decreased the available acres in the 94 [young growth] stands by about 1,156 acres." Its removal would make "an additional 739 acres available for [logging]." See Tongass Young Growth Suitability Synopsis at 3 (R.Sheets, 2018). Thus, removal of S-YG-KC-02 increases by seventeen percent

the number of moderate vulnerability karst lands 100% suitable for clearcut logging in surveyed young growth stands on Prince of Wales Island.

Increasing this amount of karst lands suitable for clearcutting creates uncertainty over the significance of the cumulative effects from the proposed amendment because most of the previous logging on karst lands occurred long before present-day standards became applicable. Thus, the agency lacks baseline data on water quality, flow, and karst vulnerability on these young growth lands because this data was never collected prior to initial entry. Consequently, previous logging on karst terrain likely resulted in significant loss of soils from the surface into the karst landscape. See Baichtal, J.F., and D.N. Swanston, *Karst Landscapes and Associated Resources: A Resource Assessment* (General Technical Report, PNWGTR-383 at 3 (1996)) (“Our field observations indicate that the degree to which the surface is connected to the underground conduits relates directly to the impact of any increases in sediment or water delivery on karst and cave ecology.”). Logging over previously cut karst terrain will exacerbate past soil disturbance, further deplete existing soils, and threaten the long-term productivity of these karst lands. The Forest Service must evaluate the cumulatively significant impacts that repeated logging entries could have on fragile karst soils on moderately vulnerable karst lands.

Existence of Extraordinary Circumstances and Cause-Effect Relationship

Agency regulations allow categorical exclusion of a proposed action from NEPA analysis “only if there are no extraordinary circumstances related to the proposed action.” 36 C.F.R. § 220.6(a). Such a finding requires the agency to consider resource conditions, including possible potential impacts to cultural, archaeological, and historical resources. See §§ 220.6(b)(vi), (vii).

The karst and cave features and associated resources are a recently discovered and recognized attribute of the lands within southeast Alaska that are of international significance for a wide variety of reasons, including their intensity, diversity, and recreational values, as well as their biological, mineralogical, cultural, and paleontological components (Aley and others 1993).

See Baichtal & Swanston at 1 (1996). “The Pleistocene paleontology of the area is primarily known from cave and rock shelter deposits, which often are intimately related to archaeological sites.” *Id.* at 8. “This new information . . . provides additional evidence of a coastal refugium through which Pleistocene mammals and humans may have migrated south.” *Id.* Nothing in the scoping materials shared with the public indicates that the agency considered these internationally significant resource conditions before categorically excluding the proposed plan amendment from NEPA analysis.

Although the proposed amendment does not approve specific logging activities on karst terrain, a cause-effect relationship exists between increasing the amount of karst acres of operable young growth stands available for clearcut logging and potentially significant cumulative impacts to these world-class karst and cave resources. See 36 C.F.R. § 220.6(b)(2). Thus, NEPA requires the agency to evaluate these potential impacts in an EA or EIS before making a decision on the proposed amendment.

Unresolved Conflicts Make a Categorical Exclusion the Wrong Tool.

Even if a proposal will not have significant impacts, NEPA nonetheless requires consideration of alternatives when there are “unresolved conflicts concerning alternative uses of available resources.” 40 C.F.R. § 1501.2(c). Under the CEQ regulations, this requirement is met through preparation of an EA. 40 C.F.R. § 1508.9(b). Categorical exclusions do not involve the consideration of alternatives, 40 C.F.R. § 1508.4.

Since the existing TLMP standard (S-YG-KC-02) limits young growth logging activities on moderately vulnerable karst lands, it narrowed the Forest Service’s discretion for authorizing logging activities on these lands. The proposal to remove this TLMP standard results in unresolved conflicts because it makes all moderately vulnerable karst lands with young growth available for clearcut logging. Consequently, an unresolved conflict now exists because the agency’s objective (clearcut logging on moderately vulnerable karst lands) “can be achieved in one of two or more ways that will have differing impacts on the environment.” *Trinity Episcopal School v. Romney*, 523 F.2d 88, 93 (2nd Cir. 1975). The agency must consider alternatives under NEPA “even where the proposed action does not trigger an EIS process. . . . Thus, the consideration of alternatives requirement is both independent of, and broader than, the EIS requirement.” See *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228-29 (9th Cir. 1988) (requiring alternatives analysis, even though the decision was not itself an irretrievable commitment of resources, because it “may allow or lead to other activities” with environmental consequences). Because unresolved conflicts exist relating to the proposed plan amendment, a categorical exclusion is the wrong tool for this proposal.

One potential alternative the Forest Service could consider to the proposed amendment is the previous forest plan standard for young-growth management on karst adopted in the 2008 TLMP Amendment. See 2008 TLMP, KC1-IV-A to G (at p.4-24, 4-25). Additional guidance contained in Appendix H provided:

On lands underlain by carbonate, where either pre-commercial or commercial thinning is proposed, a karst resource inventory shall be conducted as described above. The openness of the underlying karst system, that systems vulnerability to surface disturbance, and the likelihood of additional sediment production or runoff by thinning the young-growth timber shall be determined. Pre-commercial thinning is appropriate on all karst lands when the karst management objectives can be met. Pre-commercial thinning to near the edge of karst features or the bank of sinking or losing streams is allowed; however, no slash or debris may fall or be placed in these features. It is probable that a zone equal to one tree height be left untreated to ensure that no slash or debris will be placed in these features. If any introduced slash or debris finds its way into karst features or losing streams, it must be removed by hand. Commercial thinning is appropriate on low to moderate vulnerability karst lands when the karst management objectives can be met. Generally, no thinning shall be permitted on lands determined to be of high vulnerability such as within 100 feet of a cave entrance, a karst feature accepting surface flow, or of the edge of a sinking or losing stream within 0.25 mile upstream of their swallow hole or loss point. On a case-by-case basis, other karst features will be assessed as to their susceptibility to surface disturbing activities, the proposed harvest method, and the thinning

prescription. The area surrounding these features is still considered high vulnerability and should be mapped as such; however, thinning of this sensitive area might be considered permissible. All features not fully protected would be buffered from their center to just outside the lip of the sink allowing for thinning within the area that would normally be a non-harvest buffer. It is probable that a zone equal to one tree height be left untreated to ensure that no material will be placed in these features. All thinned timber will be directionally felled from the untreated area surrounding the karst feature and split yarded from the area. Any material landing on the slope break of the feature or within the feature will be hand removed. No yarding across or through the untreated area surrounding the feature will be allowed. Directional falling and split yarding away from the karst depressions and features should provide adequate protection for water quality and karst features. It is believed that the benefit of hydrologic recovery of the areas adjacent to these features outweighs the risk of harvest. Again this should be assessed on a case-by-case basis.

2008 TLMP, Appendix H at H-8. The 2016 Amendment, however, substituted S-YG-KC-02 for 2008 S-KC1-A to G. Before adopting the proposed amendment, we request careful consideration of this alternative.

We support the proposed amendment to S-YG-KC-03 because we agree it critical for the agency to assess all low and moderate vulnerability lands prior to authorizing any ground-disturbing activities, whether those activities involve thinning treatments, commercial logging, or road construction or reconstruction. We recommend you consider adding language specifying that this interdisciplinary process “incorporates the professional judgments of a karst management specialist, soil scientist, and silviculturist to determine the necessary management prescriptions to maintain the natural processes and productivity of the karst landscape.”

Strengthening Transition Away from Clearcutting Old-Growth?

The scoping letter also claims the proposed amendment “would strengthen the transition away from old-growth [clearcutting] while maintaining the health and long-term productivity of karst lands.” We find this statement incompatible with the existing record.

The agency is currently plowing ahead with multiple old-growth timber projects to offer over a 15-year supply of old-growth forest for logging. These projects include the Prince of Wales Island Landscape Level Project (23,269 old-growth acres from the Craig and Thorne Bay Ranger Districts), Central Tongass Project (up to 9,500 old-growth acres from the Petersburg and Wrangell Ranger Districts), and South Revilla Project (up to 6,000 old-growth acres from the Ketchikan Ranger District). Moreover, the U.S. Department of Agriculture has initiated a rulemaking to remove the Tongass National Forest from the existing National Roadless Rule. Clearly, unlike the majority of Southeast Alaskans who support ending the costly controversy over old-growth logging on the Tongass and protecting Tongass roadless areas from roadbuilding and clearcut logging, the Forest Service continues to resist doing so.

Conclusion

For all the above reasons, the Forest Service must withdraw the proposed categorical exclusion and, at a minimum, prepare an EA for this proposed amendment. Thank you for your careful consideration of our concerns with this proposal.

Best Regards,

A handwritten signature in black ink, appearing to read "Buck Lindekugel", with a stylized, cursive script.

Buck Lindekugel
Grassroots Attorney