



December 16, 2019

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Alaska Roadless Rule
USDA Forest Service
P.O. Box 21628
Juneau, AK 99802-1628

RE: Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska, Proposed Rule; Request for Comment; 84 Fed. Reg. 55522 (Oct. 17, 2019) (36 C.F.R. Part 294; Docket No. RIN 0596-AD37)

Dear Forest Service Rulemaking Team:

This letter is in response to the October 17, 2019 Federal Register Notice of Proposed Rulemaking and Request for Comment on the proposal (“Proposed Rule”) to exempt the Tongass National Forest from the 2001 Roadless Area Conservation Rule and the Draft Environmental Impact Statement for the Proposed Rule (“DEIS”). Thank you for the opportunity to submit comments regarding this Proposed Rule and the DEIS.

A. Sealaska Corporation’s Interest in Tongass National Forest Roadless Area Management

Sealaska Corporation (“Sealaska”) is the Alaska Native Regional Corporation for Southeast Alaska, representing more than 22,000 shareholders, predominantly of Tlingit, Haida, and Tsimshian descent. The traditional homeland of the Tlingit, Haida, and Tsimshian includes what is now the Tongass National Forest. Our people have been stewards of the lands and waters of Southeast Alaska for more than 10,000 years. Through the Alaska Native Claims Settlement Act (“ANCSA”), including the most recent amendments in Public Law 113-291 enacted in December 2014, we are completing the process of selecting and receiving title to roughly 365,000 acres of lands within the region. Thus, we are, at this point, the largest non-federal owner of forest lands in Southeast Alaska. Nearly all of our lands are adjacent to or near Tongass National Forest lands, and we share reciprocal access and management needs and interests with the National Forest throughout the region.

Sealaska is a leader in forest products and forest land management as a result of our balanced land management approach, including young-growth/second growth management and environmental programs. We have been engaged in scientific studies on our lands to determine the best practices for young-growth management, habitat

restoration, and healthy fish and wildlife populations. Sealaska has also taken part in development of biomass energy use. Together with the Sealaska Heritage Institute, we promote Alaska Native arts and ensure the protection of cultural and historical resources, including sacred sites. Sealaska has been an active participant in Tongass National Forest planning processes since the original Tongass Land and Resource Management Plan (“Tongass Plan”) was issued in 1979, as well as additional consensus-based efforts to address multiple uses in the Tongass, such as the Tongass Futures Roundtable. Sealaska submitted comments and actively participated in the process for revising Forest Service land and resource management planning regulations associated with publication of final revised regulations that took effect in May 2012 and in the process leading to the Tongass Plan Amendment finalized in December 2016 (“2016 Amendment”).

Management of Tongass roadless areas has been a predominant and recurring issue in these and other Tongass planning and management exercises in which Sealaska has participated as a stakeholder over many years. Sealaska has participated individually or as a member of the Alaska Forest Association and Alaska Resource Development Council in the rulemaking and other process resulting in the 2001 Roadless Rule and the subsequent issuance of a rule exempting the Tongass from its restrictions, which have been the subject of the ongoing litigation and the State of Alaska petition that are referenced in the Proposed Rule.

Sealaska submitted an October 15, 2018 scoping comment letter in response to the August 30, 2018 Federal Register Notice of Intent to prepare an EIS for this proposed rulemaking. A Sealaska representative, Jaeleen Kookesh (Vice President, Policy and Legal Affairs), also participated as a member of the Alaska Roadless Rule Citizen Advisory Committee (“Committee”). In August 2018, Alaska Governor Bill Walker and Secretary of Agriculture Sonny Perdue signed a Memorandum of Understanding agreeing to cooperatively undertake an Alaska-specific roadless rulemaking process to address roadless management and access concerns in the Tongass. Ms. Kookesh was then selected to sit on the Committee to help provide recommendations and guidance to assist the State of Alaska in fulfilling its role as a cooperating agency under the Memorandum of Understanding. The Committee’s specific task included presenting a written report on the rulemaking process and outline options for an Alaska-specific Roadless Rule. Sealaska’s goal through this process was to find a collaborative solution to maintaining the roadless rule with improved, useable exceptions that meet multiple stakeholder needs.

In this context Sealaska, on behalf of its shareholders, has important interests and concerns regarding roadless area policies and other federal actions that can affect planning and management of the Tongass National Forest, Sealaska property, and other lands and waters in Southeast Alaska. Sealaska values the unique and special relationship that the original human occupants and stewards of Southeast Alaska lands and waters have to these national resources. We want to ensure that the Forest Service considers Sealaska’s unique perspective based on our cultural, social, environmental, and economic experience in the region, and our desire to provide due consideration to the needs of future generations in accordance with our core cultural value of *Haa Shuka*.

Sealaska is also concerned about the lack of consideration given some of the tribes in our region who are in opposition to the full exemption. We are troubled that the role of the six tribes as “cooperating agencies” did not provide the deference and due consideration to their concerns and comments in the resulting proposed rulemaking. Sealaska was not privy to that process, but we hope that the Forest Service will address this issue in the final rulemaking and give priority appropriately to our tribal and community voices, while enhancing their role in the decision making process long-term.

Sealaska’s comments reflect our review of the available documents and our long-standing, broad participation and interest in Tongass National Forest management, and participation in the Alaska Roadless Rule Citizen Advisory Committee, but are by no means exhaustive. This letter supplements and updates Sealaska’s October 15, 2018 comment letter.

B. General Comments

Sealaska has long supported an exemption of the Tongass National Forest from the 2001 Roadless Rule, which is fully supported by the law and authority referenced in the Proposed Rule. Over the last year, working within the CAC, Sealaska moved to prioritize a collaborative and agreeable process to a Roadless Rule that incorporates adequate and reasonable exceptions that provide for viable, sustainable communities. If the exceptions proposed by the Citizens Advisory Committee (*See* pages 6 – 10 of the November 21, 2018 Committee Report) were incorporated into one or more of the Alternatives 2 – 5, we would be amenable to supporting one of those alternatives.

We believe the proposed exemption can be manageable, because of the unique undeveloped character of the Tongass, the isolation of the Southeast Alaska communities dependent upon its resources for sustenance, and the many federal actions (legislative and administrative) that already provide significant restrictions and environmental protections within the Tongass and Southeast Alaska. If the full exemption remains in place, to allow for environmentally sound and balanced management of existing roadless areas, the Forest Service needs to provide our communities and local tribes opportunity for meaningful input and dialogue on development that affects their homelands. The Proposed Rule should allow for communities to prioritize projects, whether for economic development, traditional harvesting activities, recreation, or other community, economic, cultural, and social activities.

The Proposed Rule will allow the Forest Service to evaluate and make decisions on project proposals on a case-by-case basis, allowing for greater flexibility in areas that need it, while still providing environmental protections in more sensitive areas and Forest-wide. Going forward, it will be very important for the Forest Service to meaningfully engage with the State, tribes, Alaska Native Corporations, local communities, and other interests for each project proposal to ensure environmental, economic, and cultural interests are protected and sustained.

That being said, an Alaska specific Roadless Rule with increased exceptions as proposed by the Citizens Advisory Committee is an acceptable result for the Tongass

National Forest. These exceptions would ensure reasonable access in the Tongass for communities, renewable energy, and economic development activities. The exceptions were drafted and vetted by a cross-section of Alaskans and certainly provided a more acceptable option than the full application of the Roadless Rule, while taking into consideration those who preferred some of the Roadless Rule protections.

Below, Sealaska highlights some of the points to consider if excluding the Tongass National Forest from the 2001 Roadless Rule or allowing for a Roadless Rule with additional exceptions as proposed by the Committee.

1. The Unique Qualities of the Tongass Require Consideration for Both the Environmental and Economic Development Priorities of Local Communities

The Tongass National Forest is an extremely unique area, due to its huge geographic extent, largely undeveloped status, and the number of Native and other communities surrounded by the National Forest that are dependent upon access and active management and use of its resources for economic and cultural survival. The Tongass is an island archipelago with rugged landscapes spanning 16.7 million acres, comprising of the majority of Southeast Alaska. There are approximately 18,000 miles of saltwater shorelines, ocean sounds, straits, and fjords separating over 1,000 islands. A mix of rugged mainland, mountainous islands, and large glaciers and ice-fields make up the land base. Ninety-four percent of Southeast Alaska is federally managed, with sixty percent of that base being managed as Congressionally-designated Wilderness, National Parks, and National Monuments.

Most of the Tongass exists as undeveloped land. There are expansive areas that exist as high-quality habitat, native ecosystems, and old growth forests. Due to the ruggedness of the area, the communities within and adjacent to the Tongass boundaries are often isolated and remote, resulting in high energy costs, high unemployment rates, limited access to health care, and other social and economic hardships. As further discussed in Section 2 below, this means that these communities are heavily dependent upon access and use of the natural resources within the area. The 2001 Roadless Rule has unnecessarily prevented development and sustainable use of resources; a process is needed that allows local development priorities to occur.

Under the Proposed Rule, many of the areas that exist as undeveloped would continue to be managed for preservation, while allowing for other areas of the Tongass to provide economic, cultural, and subsistence resources for local communities. The Forest Service recognized in its 2003 Rulemaking that the Tongass is and will continue to be roadless even without the Roadless Rule, and that a far greater percentage of this forest will remain roadless even without the Roadless Rule than exists in nearly all other National Forests. *See* 68 Fed. Reg. 75136, at 75139 (Dec. 30, 2003). These circumstances have not changed since 2003.

2. Southeast Alaska Communities Need More Flexibility for Access to and Use of Tongass Resources

Our people have lived and thrived here in this region for more than 10,000 years. Our cultural and social survival is dependent upon continued access to and use of the resources within the Tongass National Forest and throughout the region. Continued sustainable subsistence and commercial harvest of resources such as fish, game, berries, bark, monumental art and totem logs, and other resources from Tongass lands and waters by Sealaska's Alaska Native shareholders and other rural residents is important for individual health and community cultural and economic vitality. Water-based and other access not requiring roads will remain important for traditional uses. However, roads are, and will be, a growing component of needed access for these as well as other commercial uses important to the future of Southeast Alaska communities and residents.

There must be a balance between protecting the Tongass' many resources and ensuring Alaska Natives' continued subsistence and other sustainable harvest of national forest resources to meet Alaska Native and rural community needs and purposes, as recognized under the Alaska National Interest Lands Conservation Act ("ANILCA") and other laws. Unlike most, if not all, national forests in the lower 48 states, communities throughout Southeast Alaska are largely surrounded by national forest lands and depend predominantly on resources from the Tongass for actual survival, not to mention cultural, social and economic activity. There should be opportunity for traditional harvest activities and local community development priorities, in balance with the conservation opportunities.

There are 32 communities within the boundaries of the Tongass, many of them Alaska Native villages. Most Southeast Alaska communities lack road and utility connections to other communities and the mainland systems. Allowance for environmentally sound road and other infrastructure for timber harvest and other economic and community uses are particularly needed for cost-effective and productive transportation systems where Sealaska and other non-federal lands adjoin National Forest lands that are not yet roaded. The same is true for roadless areas in proximity to rural communities, where such access for commercial, subsistence and other sustainable activities is important.

Sustaining a viable, resilient forest products industry that provides job opportunities in the region requires increased flexibility in land use within the Tongass. For a forest products industry at a scale that local communities could support, we need to make planning and investment easier, as the volatility of unknown volume, delays and regulatory changes makes the industry untenable. An infrastructure of harvest, processing, transport and export facilities, and businesses at a scale that provides a meaningful level of sustainable year-round family supporting employment is needed. Sealaska and other Native Corporations require such infrastructure in Southeast Alaska to support operations on their own lands. The timber supply from non-federal lands and the current roaded portion of the Tongass National Forest that is available for harvest operations has not been and does not promise to be adequate. The survival of even the

current facility and business infrastructure, which is a small remnant of its former self, is in doubt. We need the flexibility.

Development and implementation of alternatives to diesel generation and other measures to reduce the high costs of power in rural Southeast Alaska communities also requires increased flexibility in land use within the Tongass. Some of our rural communities pay as much as 67 cents per kilowatt hour. Road access for hydroelectric and other renewable energy development sites and transmission routes, as addressed above, is an important aspect of realizing further cost-effective energy gains. So is further access for wood biomass harvest and use in community and other local power generation facilities. Requiring helicopter or other unroaded access rather than less costly and more reliable roads needs to be limited to where it is legally mandated or otherwise the only practicable means. This was one of the areas where the Citizens Advisory Committee proposed exceptions.

Road access will also remain important for locally supported or community prioritized development, which could include mineral resources. Not all such resources currently have the status of valid existing rights or will otherwise fit within the limited exceptions for roads contained in the 2001 Roadless Rule. Similarly, there needs to be allowance for road routes to connect communities and for other economic development, public health and safety purposes. The merits of such projects and their environmental effects can be more than adequately evaluated within the Forest Plan and project-level regulatory and management process that exists and applies in the absence of the 2001 Roadless Rule. The rigidity and limited exceptions in the Roadless Rule do not provide the flexibility needed for achieving sustainable environmental, economic, and social balance in Southeast Alaska. This was also addressed by the Citizens Advisory Committee.

3. If the Full Exemption is Applied, We Expect the Ample Protections of Tongass Roadless Areas and Other Natural Values Will Continue Under the Forest Plan and Federal Legislation

The 2001 Roadless Rule currently applies to 9.2 million acres (55 percent) of the Tongass. A number of laws and regulations have already reduced the number of acres where timber harvest is allowed on national forests, both nationwide and on the Tongass. For example, congressionally designated Wilderness makes up another 5.8 million acres (34 percent) of the Tongass. Indeed, the majority of the Tongass inventoried roadless areas are allocated to non-development land use designations under which road construction and timber harvest activities are off limits. Thus, even without the 2001 Roadless Rule, only four percent of the Tongass will be designated as suitable for timber harvest. Even without the 2001 Roadless Rule, the land and resource use restrictions on the Tongass are already quite significant and burdensome for a multiple use forest and for the people who work to live and thrive in Southeast Alaska. The application of the 2001 Roadless Rule in addition to these other restrictions has resulted in unwarranted, inflexible barriers to development and injured local communities. See the chart attached to this letter for a depiction of the existing restrictions on Tongass National Forest multiple use management.

Sealaska believes that there will continue to be significant protections and processes in place to balance economic development with the protection of important lands and resources within the region. We will commit to work with the Forest Service, our Tribes, our communities, and other Stakeholders to ensure that the existing processes and protections in place maintain the appropriate balance for sustainable, viable, healthy communities.

4. If the Full Exemption is Applied, We Expect Appropriate Deference and Consideration of Local, Tribal and Community Input

If the Proposed Rule for a Full Exemption of the Roadless Rule in the Tongass becomes the Final Rule, local decision making by Forest Service officials will occur under existing Forest Plan and other requirements. It will be very important for the Forest Service to meaningfully engage with the tribes, Alaska Native Corporations, local communities, the State, and other interests for each project proposal to ensure environmental, economic, social and cultural interests are protected and sustained. The Forest Service must ensure a process is in place for improved local input and review of local community priorities, possibly through Community Economic Development Plans or other community planning processes.

C. Specific Comments on the Proposed Rule

The Proposed Rule should be clarified in the Final Rule and/or its Record of Decision to expressly state that the Final Rule supersedes any Tongass Forest Plan, Forest Service Manual, Forest Service Handbook or other Forest Service direction that incorporates or implements the 2001 Roadless Rule on the Tongass National Forest, or that is more restrictive than what the Final Rule allows for Tongass roadless areas. This is indicated on page ES-2 of the DEIS but needs to be clear in the Final Rule issuance. This will help clarify that the Final Rule is fully effective on its effective date and does not require any additional Tongass Forest Plan amendment or other action by the Forest Service to implement. Whether the Final Rule fully exempts the Tongass from the 2001 Roadless Rule or instead is adapted from other alternatives in the DEIS, we recommend that it expressly incorporate the exceptions in the Citizens Advisory Committee November 21, 2018 report (pages 6 – 10) to make it clear that those allowances apply on the Tongass.

D. Comments on the DEIS

We question the need for an EIS for a programmatic level rule such as the Proposed Rule that does not commit to any development with adverse environmental effects and leaves the complete NEPA, National Forest Management Act, and related environmental review and decision process in place for any future revisions or amendments to the Tongass Forest Plan, as well as for each proposed project that may be proposed in roadless areas going forward. In any case, the DEIS indicates no significantly different environmental effects from the Proposed Rule compared to the no-action and other alternatives evaluated in the DEIS. We have not conducted a detailed or

exhaustive review of the DEIS, and do not necessarily agree with all of its conclusions or statements. We reserve Sealaska's rights to disagree going forward—in particular regarding any DEIS content about or effecting Sealaska lands and their management. However, we do consider the DEIS adequate for NEPA purposes for the Proposed Rule.

E. Closing Remarks

On behalf of our 22,000 shareholders and our impacted Southeast Alaska communities that are home to our shareholder base, thank you for the opportunity to further participate in the Tongass planning and management process. We trust that you will consider and be responsive to the comments described in this letter. We request further consultation prior to final issuance of a Final Rule, if the Secretary determines to substantially depart in the Final Rule from the Proposed Rule and to consider our recommendations regarding the Committee exceptions. We look forward to continued dialogue and collaboration as the Forest Service finalizes the Proposed Rule.

Sincerely,

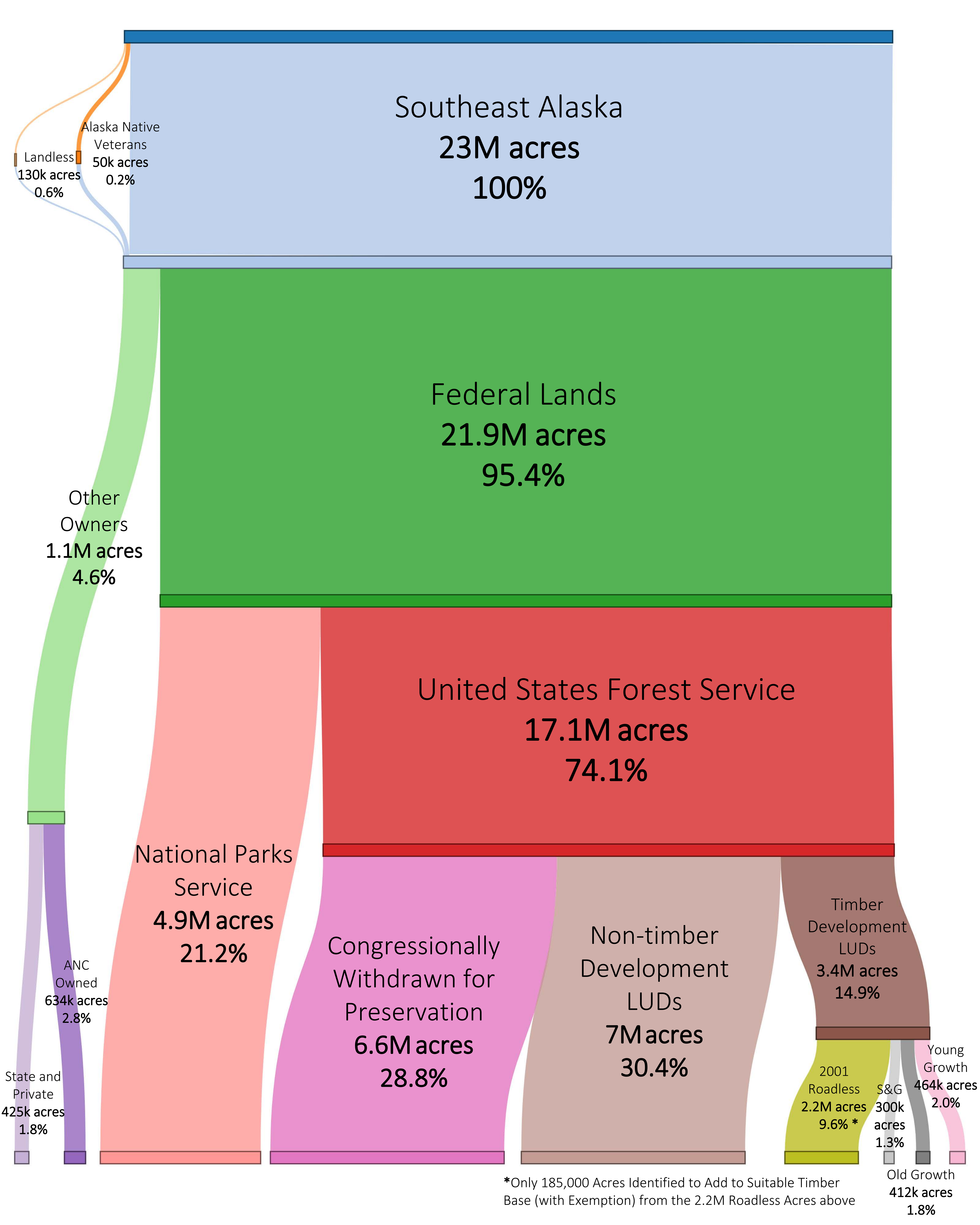
SEALASKA CORPORATION

A handwritten signature in black ink, appearing to read 'Anthony Mallott', is written over the printed name.

Anthony Mallott
President & Chief Executive Officer

Attachment

cc: Dave Schmid, Regional Forester, Alaska, USDA Forest Service



Southeast Alaska
23M acres
100%

Federal Lands
21.9M acres
95.4%

United States Forest Service
17.1M acres
74.1%

National Parks Service
4.9M acres
21.2%

Congressionally Withdrawn for Preservation
6.6M acres
28.8%

Non-timber Development LUDs
7M acres
30.4%

Timber Development LUDs
3.4M acres
14.9%

2001 Roadless
2.2M acres
9.6% *

S&G
300k acres
1.3%

Old Growth
412k acres
1.8%

Young Growth
464k acres
2.0%

Other Owners
1.1M acres
4.6%

ANC Owned
634k acres
2.8%

State and Private
425k acres
1.8%

Landless
130k acres
0.6%

Alaska Native Veterans
50k acres
0.2%

*Only 185,000 Acres Identified to Add to Suitable Timber Base (with Exemption) from the 2.2M Roadless Acres above