

**CENTER FOR BIOLOGICAL DIVERSITY \* DEFENDERS OF WILDLIFE \*  
EARTHJUSTICE \* SOUTHEAST ALASKA CONSERVATION COUNCIL \*  
THE BOAT COMPANY \* WOMEN’S EARTH AND CLIMATE ACTION NETWORK**

March 9, 2026

**VIA CARA.FS2X.USDA.GOV**

Jerry Ingersoll, Acting Regional Forester  
U.S. Forest Service  
Alaska Region  
P.O. Box 21628  
709 W. 9th Street  
Juneau, AK 99802-1628

Re: Objection to the South Revillagigedo Integrated Resource Project

Dear Acting Regional Forester Ingersoll:

Pursuant to 36 C.F.R. Part 218, Earthjustice, on behalf of Center for Biological Diversity, Defenders of Wildlife, Southeast Alaska Conservation Council, The Boat Company, and Women’s Earth and Climate Action Network, hereby objects to the final environmental impact statement (FEIS) and draft record of decision (Draft ROD) for the South Revillagigedo Integrated Resource Project (the “South Revilla Project” or Project). The Forest Service plans to implement the Project within the Ketchikan Misty Fjords Ranger District of the Tongass National Forest (Tongass).<sup>1</sup> Monique Nelson, Tongass National Forest Supervisor, is the Responsible Official for the Project.<sup>2</sup>

With this decision, the Forest Service would authorize the largest logging old-growth logging project in the Tongass National Forest in many years. The Draft ROD would authorize logging approximately 83.5 million board feet of trees over more than 5,000 acres, including approximately 60 million board feet of old-growth trees. It will also authorize construction of more than 40 miles of new permanent and temporary roads and the reopening of more than 30 miles of closed roads. All of this without dealing with the economic realities of the Project or adequately considering its real harms.

The FEIS and Draft ROD fail to grapple with the fundamental economic and environmental failings of the South Revilla Project. The FEIS’s analysis is skewed to value timber production over the other stated priorities of the project—recreation, tourism, subsistence, and aquatic and terrestrial resource management, which have proven more important to the modern southeast Alaska economy than timber. But even with that bias, the Forest Service was unable to describe an economically viable alternative. Timber offerings under all action alternatives are expected to appraise substantially negative. In addition, despite receiving detailed extensive comments from these objectors and others on the draft environmental impact statement (DEIS), the Forest

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<sup>1</sup> 36 C.F.R. § 218.8(d)(4); Draft ROD at 1.

<sup>2</sup> 36 C.F.R. § 218.8(d)(4); U.S. Forest Service, Planning Participant Letter at 1 (Jan. 15, 2026).

Service has still not adequately considered the project's impacts in the FEIS, including to fish and wildlife, subsistence, scenery, the local and regional economy, and the climate. As a result, the Draft ROD violates several applicable laws, including the National Forest Management Act (NMFA), the National Environmental Policy Act (NEPA), the Alaska National Interest Lands Conservation Act (ANILCA), and the Administrative Procedure Act (APA).

Like all large-scale old-growth logging on the Tongass, the project threatens values important to residents of southeast Alaska and the nation. Tongass communities depend upon the forest's old-growth stands to support the region's fish, wildlife, and outdoor recreation industries. Clear-cutting these ancient forests also compromises the United States' climate preparedness and reduces the country's ability to address the effects of climate change worldwide.

In approving this Project, the Forest Service would be abandoning long-standing legal and scientific principles in a poorly veiled attempt to provide a massive giveaway to the timber industry based on an inadequate analysis. We strongly urge the Forest Service to reconsider the proposed Project and either adopt the No Action Alternative or remove the logging from the Project and proceed with the recreation and watershed restoration activities anticipated in the Project.

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## DESCRIPTION OF THE OBJECTING PARTIES

On October 19, 2020, and Dec. 24, 2020, the objecting parties submitted substantive comments on the DEIS for the South Revilla Logging Project.<sup>3</sup> Many of the objecting parties also advocated for the cancellation of the project through letters to the Forest Service.<sup>4</sup> And many of them commented on and objected to the 2016 amendment to the Tongass Land and Resource Management Plan final environmental impact statement (2016 Amended Forest Plan FEIS) and the 2016 Amendment to the Tongass Land and Resource Management Plan (2016 Forest Plan), which now governs the South Revilla Project. The undersigned organizations reiterate the arguments and issues raised regarding the 2016 Amended Forest Plan in their entirety.

For purposes of 36 C.F.R. § 218.8(d)(1), the objecting parties may be contacted at the names, addresses, and telephone numbers indicated in the signature block. For purposes of 36 C.F.R. § 218.8(d)(3), Earthjustice, which is submitting this objection on behalf of the other parties, is the “lead objector.”

## STATEMENT OF ISSUES, INCONSISTENCY, AND ILLEGALITY

As explained below, this objection addresses the South Revilla Logging Project, as well as the supporting FEIS and the Draft ROD. The objection addresses the specific issues of concern regarding the Project below.<sup>5</sup>

The objection identifies the various ways that the FEIS and draft ROD, if adopted by the Forest Service, would violate NEPA, ANILCA, NFMA, and the APA and would be inconsistent with the Forest Plan. In addition, as explained below, each substantive section also demonstrates the connection between specific sections of the DEIS comment letters and any specifically incorporated material, or, where relevant, explains that a specific issue arose after the opportunity for formal comment.<sup>6</sup>

### **I. The project is not consistent with the Forest Plan’s young-growth direction and approving the project would therefore be a violation of NFMA and the APA.**

As argued in SEACC’s comment letter, the proposed Project is not consistent with the young-growth transition, and, contrary to the rationale stated in the FEIS and draft ROD, is not needed

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<sup>3</sup> The Boat Company *et al.*, Letter to S. Walker, District Ranger, U.S. Forest Service, Tongass National Forest, Re: South Revilla Integrated Resource Project (Oct. 19, 2020) (“The Boat Company comment letter”); Southeast Alaska Conservation Council *et al.*, Letter to S. Walker, District Ranger, U.S. Forest Service, Tongass National Forest, Re: Comments on the South Revillagigedo Integrated Resource Project Draft Environmental Impact Statement (Oct. 19, 2020) (“SEACC *et al.* comment letter”); Southeast Alaska Conservation Council *et al.*, Letter to S. Walker, District Ranger, U.S. Forest Service, Tongass National Forest, Re: SUPPLEMENTAL Comments on the South Revillagigedo Integrated Resource Project Draft Environmental Impact Statement—Shelter Cove Timber Sale (Dec. 24, 2020) (“SEACC *et al.* supplemental comment letter”).

<sup>4</sup> See, e.g., H. McIntosh, The Boat Company, & D. Blanchard, Uncruise, Letter to Chris French, Acting Undersecretary for Natural Resources and Environment, U.S. Department of Agriculture (April 15, 2021).

<sup>5</sup> See generally 36 C.F.R. § 218.8(d)(5).

<sup>6</sup> See *id.* § 218.8(c).

to facilitate the transition.<sup>7</sup> One of the forest-wide components of the Forest Plan is a timber objective that seeks to accelerate a transition to primarily young-growth harvest. Under this plan component, the Forest Service must prioritize young-growth timber sales. It may only sell old-growth trees for logging after determining how much young-growth is available: “When young-growth offered is less than 41 [million board feet (MMBF)], provide old growth to make up the difference and achieve the average annual projected timber sale quantity of 46 MMBF.”<sup>8</sup> In this case, the Forest Service has done the opposite. It has prioritized selling 60 MMBF of old-growth forests to “create opportunities for future young-growth units” instead of prioritizing young-growth logging and, only after that, considering old-growth logging.<sup>9</sup> This violates the 2016 Forest Plan standards and NFMA.

Furthermore, as discussed below, cutting old-growth trees now to provide opportunities for future young-growth logging is irrational and arbitrary. Continuing to cut old-growth trees today for the sake of future young-growth logging would entirely circumvent the 2016 Forest Plan’s transition—a transition intended to focus logging on young-growth that already exists, not on creating more young-growth by continuing to prioritize cutting old-growth. It is also inconsistent with the Southeast Alaska Sustainability Strategy’s goal of ending most old-growth logging.

## **II. The Forest Service failed to consider a reasonable range of alternatives and arbitrarily relied on analysis that was skewed in favor of maximizing timber volume, in violation of NEPA and the APA.**

According to the FEIS, the purpose of the Project is to:

- contribute to jobs and economic opportunities in local and regional communities through timber, recreation, and aquatic and terrestrial resource management,
- sustain and improve aquatic and terrestrial habitat conditions that support the use of commercial, sport, and subsistence resources, and
- provide access to forest resources for commercial, subsistence, and recreation users.<sup>10</sup>

Yet the FEIS and Draft ROD are focused largely on timber supply, ignoring the project’s other stated purposes. The FEIS in fact considers only a narrow range of alternatives that slightly vary timber volume,<sup>11</sup> and the Draft ROD cites timber supply management, especially maximizing

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<sup>7</sup> See SEACC *et al.* comment letter at 2-3.

<sup>8</sup> 2016 Forest Plan at 5-13 (0-TIM-01).

<sup>9</sup> FEIS at 4; *see also* Draft ROD at 19-20

<sup>10</sup> FEIS at 1.

<sup>11</sup> *Id.* at 20-23.

volume, as the primary rationale for its decision.<sup>12</sup> As groups explained in comments on the DEIS, this failure to consider a reasonable range of alternatives, including a feasible alternative that prioritized recreation, tourism, and aquatic and terrestrial resource management, violates NEPA.<sup>13</sup> And the Forest Service's decision to select an alternative without demonstrating that it satisfies the Project's purpose and need is arbitrary, in violation of the APA.<sup>14</sup>

An agency's obligation to evaluate reasonable alternatives to any proposed agency action is a core requirement of NEPA, key to informing the public and the agency's decision making.<sup>15</sup> NEPA requires agencies to "study, develop, and describe technically and economically feasible alternatives,"<sup>16</sup> and to discuss in every environmental impact statement (EIS), "a reasonable range of alternatives to the proposed agency action."<sup>17</sup> Alternatives must be "technically and economically feasible, and meet the purpose and need of the proposal."<sup>18</sup> Although an agency need not consider an infinite range of alternatives, it must develop alternatives that would "avoid or minimize" harm to the environment,<sup>19</sup> and include alternatives "varied enough to allow for a real, informed choice."<sup>20</sup> "The existence of a viable but unexamined alternative renders an environmental impact statement inadequate."<sup>21</sup>

The FEIS evaluates three action alternatives and a no action alternative.<sup>22</sup> The action alternatives vary only minimally and primarily based on the volume of timber they would supply, ranging from up to 60 MMBF under Alternative 3, to up to 83 MMBF under Alternative 2, the preferred alternative.<sup>23</sup> The FEIS does not actually consider any alternative that prioritizes the other purposes of the Project to provide habitat restoration and improve recreation opportunities. While Alternative 4 is purportedly an attempt to reduce scenic impacts, it retains the same high level of logging as other alternatives, prioritizing logging above other goals. Nor does the FEIS consider any mid-range timber-sale alternative that would limit timber volume and allow for comparison of the economic viability of such alternatives with the proposed alternative.

The FEIS's narrow range of alternatives and failure to consider feasible alternatives by itself violates NEPA.<sup>24</sup> But the error here is even more foundational. The FEIS's analysis is skewed in favor of maximizing logging without any effort to meet other goals the Forest Service stated the

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<sup>12</sup> Compare, e.g., Draft ROD at 20 (explaining highest-volume alternative best meets need for timber production), with *id.* at 21 (noting that habitat restoration and recreation measures are the same across all alternatives).

<sup>13</sup> SEACC *et al.* comment letter at 2-3, 42-45.

<sup>14</sup> *Id.* at 42-45.

<sup>15</sup> 42 U.S.C. § 4332(2)(C)(iii), (F); *State of Cal. v. Block*, 690 F.2d 753, 766-67 (9th Cir. 1982).

<sup>16</sup> 42 U.S.C. § 4332(2)(F).

<sup>17</sup> *Id.* § 4332(2)(C)(iii).

<sup>18</sup> *Id.* § 4332(2)(C)(iii).

<sup>19</sup> See *Native Ecosystems Council v. U.S. Forest Serv.*, 418 F.3d 953, 964 (9th Cir. 2005) (citation modified).

<sup>20</sup> *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1039 (9th Cir. 2008).

<sup>21</sup> *Or. Nat. Desert Ass'n v. Bureau of Land Mgmt.*, 625 F.3d 1092, 1122 (9th Cir. 2010) (citation modified).

<sup>22</sup> FEIS at 20-23

<sup>23</sup> *Id.* at 21-22.

<sup>24</sup> See 42 U.S.C. § 4332(2)(C)(iii).

Project is intended to prioritize. For example, the FEIS includes extensive discussion of the jobs created and economic benefit of the timber made available under the project,<sup>25</sup> but no analysis of how the Project will affect “jobs and economic opportunities in local and regional communities through . . . recreation tourism, and aquatic and terrestrial resource management.”<sup>26</sup> If not corrected, this reliance on analysis, which ignores a critical aspect of the problem and skews the decision making towards maximizing timber volume, would render the decision arbitrary.

The FEIS also improperly dismisses four alternatives proposed by the objectors in comments that would reduce old-growth harvest:<sup>27</sup>

1. The Forest Service declines to analyze in detail an alternative that would require no new road construction.<sup>28</sup> The FEIS asserts that “[t]he existing road system in the project area does not access all units proposed for harvest in this Project. Existing roads access about a third of the proposed old-growth harvest acres.”<sup>29</sup> The FEIS fails to explain why an alternative providing access to 34 percent of the proposed old-growth acres does not meet the purpose and need, or why only those alternatives requiring the logging of at least 4,410 acres of old growth do meet the purpose and need. Further, the agency’s rationale does not address why an action alternative that proposed to allow logging of only 50 percent—or 67 percent—of the old growth proposed by Alternative 2 would not meet the purpose and need.
2. The Forest Service declined to consider in detail an alternative that would bar clearcutting and only allow logging that “model[ed] natural disturbance and stand development processes (uneven-aged management).”<sup>30</sup> The Forest Service argued that using only uneven-aged logging would not provide enough timber volume to be economical for a logging company, and may not be saleable. This assertion is arbitrary because none of the analyzed action alternatives appear to provide for a “saleable” timber project either; all of the action alternatives result in a “negative indicated advertised rate.”
3. The Forest Service declined to consider in detail an alternative that only removes young-growth timber.<sup>31</sup> Such a project will provide logging and timber removal jobs, like the other alternatives, would not require new temporary or permanent roads, and will assist local industry in the transition to young growth as proposed in the 2016 Forest Plan. The Forest Service offers no rationale for refusing to consider a young-growth-only alternative, except to say that such an alternative is not required.<sup>32</sup> Moreover, the FEIS seems to acknowledge that such an alternative would be feasible by stating that under the action alternatives, “the responsible official could decide to select only young-growth

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<sup>25</sup> FEIS at 71-77.

<sup>26</sup> *Id.* at 1

<sup>27</sup> SEACC *et al.* comment letter at 44-45.

<sup>28</sup> FEIS at 26.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 27.

<sup>31</sup> *Id.* at 28.

<sup>32</sup> *Id.*

harvest.”<sup>33</sup> If that is so, the Forest Service surely could evaluate an alternative that *required* only young-growth harvest.

4. The Forest Service declined to consider in detail any reduced timber harvest alternative, including any action alternative that would maintain road density, avoid loss of deer habitat capability in wildlife analysis areas (WAAs) 406 and 407, or prohibit harvest or roadbuilding in at risk watersheds 19010102050402, 19010102060305, 19010102050304 (Licking Creek), 19010102050604, and 19010102050403 (Shoal Creek).<sup>34</sup> Again, the agency does not argue such alternatives would be infeasible or inconsistent with the Project’s purpose and need. Instead, it wrongly asserts, as a basis for eliminating such alternatives from detailed consideration, that these alternatives are within the range of alternatives analyzed because the authorized official could choose to implement them within the existing alternatives. But, again, an alternative in which an agency may retain discretion to take certain actions is not the same as an alternative that requires those actions, and does not substitute for the agency’s obligation to analyze feasible alternatives.

The Forest Service’s failure to consider a reasonable range of alternatives, including feasible alternatives proposed by the objectors, violates NEPA.

### **III. All action alternatives remain economically deficient and therefore cannot satisfy the Project’s purpose and need.**

The FEIS confirms, rather than cures, the fundamental economic deficiencies identified in the objectors’ comments on the DEIS.<sup>35</sup> Across all action alternatives, the FEIS acknowledges that timber offered under the South Revilla Project would appraise at substantially negative Indicated Advertised Rates (IARs), demonstrating that the Project does not support an economically viable timber program and cannot rationally satisfy the stated Purpose and Need of “contributing to the economic sustainability of the region[,]” or providing jobs and economic opportunity for the timber industry.<sup>36</sup>

For the proposed action (Alternative 2), the FEIS projects an IAR ranging from -\$82.18 per thousand board feet (MBF) (maximum log export scenario) to -\$266.88 per MBF (maximum domestic manufacturing scenario).<sup>37</sup> Alternatives 3 and 4 fare only marginally better with estimated ranges from -\$50.37 per MBF (export scenario) to -\$246.81 per MBF (domestic processing scenario) and -\$77.77 to -\$263.20 per MBF, respectively.<sup>38</sup>

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> See SEACC *et al.* comment letter at 3-5 (documenting deficit economics and legal prohibition).

<sup>36</sup> FEIS at 4.

<sup>37</sup> FEIS at 30, Tbl. 7. The FEIS uses “[m]aximum [d]omestic [m]anufacturing” to refer to a scenario where the highest feasible proportion of logs (larger hemlock  $\geq 20$ ” SED, spruce  $\geq 18$ ” SED, all western redcedar) is manufactured in Alaska, with remaining species exported; “maximum export” refers to a low-market scenario with 100 percent hemlock export and only select spruce or cedar manufactured locally. *Id.* at 32 n.2-3.

<sup>38</sup> *Id.* at 30, Tbl. 7.

These FEIS estimates represent a substantial worsening of the deficit projections disclosed in the DEIS. The DEIS had estimated Alternative 2 IARs of -\$89.57 per MBF (high market) to -\$43.81 per MBF (low market).<sup>39</sup> The FEIS's revised range, with a worst-case deficit more than doubling the potential deficit (increasing deficits from -\$43.81 to -\$82.18 for low rate/MBF maximum log export, and from -\$89.57 to -\$266.88 for high rate/maximum domestic manufacturing), reflects either deteriorating market conditions, increased cost estimates, or methodological revisions that the FEIS does not transparently explain.<sup>40</sup> Regardless of the cause, the FEIS concedes that no action alternative analyzed would produce an economically viable logging project that would meet the first purpose for the Project, which is to manage the timber resource, contribute to the economic sustainability of the region, and provide jobs and other economic opportunities.

The FEIS attempts to explain away the deficit projections by stating that they are based on "an estimated average of the whole project area" and that "averages were used for road construction costs."<sup>41</sup> It further asserts that "[p]roviding flexibility during planning is important so that sales can be configured during implementation to result in a positive appraisal."<sup>42</sup> But the Forest Service provides no support for these conclusory statements that contradict the agency's own economic analysis demonstrating that all alternatives are uneconomic. In fact, the Forest Service has previously abandoned another timber sale proposal in the same area, the 2015 Saddle Lakes timber sale project, because it was not economic.<sup>43</sup> Nothing has changed since that time that would make timber sales more likely to lead to economic benefits for purchasers or the public.<sup>44</sup> Nor has the Forest Service explained how approving a project involving uneconomic timber sales would meet the purpose and need it has identified for the Project. Without any support for the Forest Service's assertion that it can essentially force individual timber sales to appraise positive, there is no rational basis for concluding that the Project will meet the economic justifications that are central to the purpose and need.

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<sup>39</sup> DEIS at 28, Tbl. 7.

<sup>40</sup> The FEIS does not explain any methodological differences that could have resulted in the wildly varying cost estimates in the six years between the DEIS and FEIS. Nor does it explain if or how the changed numbers could be due entirely to updates or different source materials. Rather, the Response to Comments (Appendix E) addresses timber economics (Issue 1) but does not explain the methodological or other differences that produced the dramatically wider deficit range. FEIS, App. E, Response to Issue 1 at 351–52.

<sup>41</sup> FEIS at 73.

<sup>42</sup> FEIS, App. E, Response to Issue 1 at 352.

<sup>43</sup> SEACC *et al.* comment letter at 4.

<sup>44</sup> The Forest Service does not, for example, provide a sensitivity analysis, confidence intervals, or scenario testing to assess whether more realistic site-specific configurations could ever achieve positive appraisals. Standard forestry economics practice employs Monte Carlo simulation or scenario analysis to test the sensitivity of appraisals to key variables (road costs, market prices, logging system selection). *See, e.g.,* Mendoza, G.A. & R. Martins, *Multi-Criteria Decision Analysis in Natural Resource Management: A Critical Review of Methods and New Modelling Paradigms*, 230 *Forest Ecology & Mgmt.* 1, 1–22 (2006).

#### **IV. The FEIS arbitrarily fails to reconcile deficit appraisals with statutory prohibitions on advertising deficit timber sales.**

The FEIS does not meaningfully address the objectors' comment that federal law prohibits the Forest Service from advertising deficit timber sales in Alaska.<sup>45</sup> The Further Consolidated Appropriations Act provides that “[n]o timber sale in Alaska's Region 10 shall be advertised if the indicated rate is deficit.”<sup>46</sup> The objectors specifically explained in comments on the DEIS that “none of the alternatives indicate that future sales offered under the project will appraise positive,” and that proceeding with a project structured around deficit sales was incompatible with federal law and agency policy.<sup>47</sup> The Draft ROD indicates that one of the reasons for the Forest Service’s selection of the proposed alternative is to “provide economic development opportunities in support of economic diversity,” but the Forest Service does not explain, in the FEIS or the Draft ROD, how it expects to provide these economic opportunities by offering uneconomic timber sales that it cannot lawfully offer in the face of the Appropriations Act’s prohibition on deficit timber sales.<sup>48</sup> The rationale expressed in the Draft ROD conflicts with the Forest Service’s own economic analysis and a decision to approve the proposed Project would be arbitrary.

The only explanation offered in the FEIS is that “[a]lthough the alternatives show deficit when analyzed with preliminary information, only timber sales that appraise positive can be offered for bid,” and that “sale configuration during implementation will determine the least cost and highest value,” such that “providing flexibility during planning is important so that sales can be configured during implementation to result in a positive appraisal.”<sup>49</sup> Later in that response, the FEIS asserts that “[a]ll timber sale offers must appraise positively to meet the stipulation of the Appropriation Bills.”<sup>50</sup>

This creates an unexplained internal contradiction: the Forest Service simultaneously acknowledges that it cannot advertise deficit timber sales yet proposes to select the alternative that its own economic analysis predicts would have the most negative values. Nor does the agency explain how it expects to achieve positive appraisals. The agency does not, for example, explain:

- What specific unit and road configurations would eliminate the deficit, or whether such configurations have been identified and withheld from public disclosure and analysis;
- What cost reduction, or price increase would be required to cross the threshold from deficit to positive appraisal;
- Whether any configuration capable of positive appraisal would meet the Project’s Purpose and Need;

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<sup>45</sup> SEACC *et al.* Comments at 3-4.

<sup>46</sup> Further Consolidated Appropriations Act, 2020, § 436, 133 Stat. at 2751

<sup>47</sup> SEACC *et al.* comment letter at 4.

<sup>48</sup> Draft ROD at 19.

<sup>49</sup> FEIS, App. E, Response to Issue 1 at 352 (emphasis added).

<sup>50</sup> *Id.* at 346.

- Whether economic feasibility would require abandoning restoration, recreation, or resource protection components that are necessary to meet other elements of the purpose and need; or
- What the likelihood is that market conditions, cost efficiencies, or design refinements will produce positive appraisals during the 15-year implementation window.<sup>51</sup>

By deferring these determinations to post-NEPA “implementation,” the FEIS undermines informed decision-making and improperly relies on future discretion to cure a defect that NEPA requires be addressed now. NEPA mandates that agencies evaluate the environmental and economic consequences of actions that are reasonably foreseeable at the time of decision-making.<sup>52</sup> Here, the agency concedes that its “current best estimate of expected effects” produces only deficit outcomes, yet it fails to identify or analyze any non-deficit sale configuration that could lawfully be advertised under appropriations law.<sup>53</sup>

The Forest Service’s assertion that positive sales “can be achieved at implementation through refinements in unit and road design”<sup>54</sup> is speculative and unsupported by any evidence in the FEIS or draft ROD. If such refinements are technically and economically feasible, the agency is obligated to analyze them in the FEIS and make them available for public comment.<sup>55</sup> If they are not feasible, or cannot be achieved in the absence of significant changes in timber markets, it would be arbitrary to approve the logging components of any of the action alternatives when the Forest Service’s analysis shows they all have negative values.

## **V. The FEIS presents a skewed economic analysis that violates NEPA.**

### **A. Employment and Economic Benefit Claims Remain Speculative and Untethered to Market Reality**

The FEIS continues to rely on employment projections that it concedes are not predictive of actual outcomes. The FEIS states that “job estimates are relative and not absolute and are used to show relative differences between alternatives.”<sup>56</sup> These estimates are derived from “[e]mployment coefficients . . . estimated from publicly available regional data,” rather than

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<sup>51</sup> The FEIS does not disclose the volume-weighted average deficit per MBF across all proposed sales, nor does it identify which individual units or sale packages (if any) might appraise closer to break-even. Without this disaggregated information, the public and decision-maker cannot assess whether partial implementation (e.g., harvesting only the least-deficit units) would be economically rational or consistent with the Purpose and Need.

<sup>52</sup> 42 U.S.C. § 4332; *see also California v. Block*, 690 F.2d 753, 761 (9th Cir. 1982)) (NEPA requires “a reasonably thorough discussion of the significant aspects of the probable environmental consequences”).

<sup>53</sup> FEIS at 352 (This is particularly problematic given that the FEIS was finalized in January 2026—more than five years after the DEIS and amid documented market volatility, inflation, and regional economic shifts, discussed below. The agency had ample time and opportunity to refine unit layouts, test alternative road configurations, or conduct sensitivity analyses but chose not to do so.)

<sup>54</sup> FEIS at 32 n.6.

<sup>55</sup> 42 U.S.C. § 4332.

<sup>56</sup> FEIS, App. E, Response to Issue 1 at 351.

project-specific commitments or demonstrated demand.<sup>57</sup> The analysis overstates the Project's potential employment benefits because it relies on outdated economic information and misrepresents the current state of the timber economy. Specifically, the FEIS applies coefficients from a 2019 industry survey to project that Alternative 2 would support between 315 and 365 “annualized timber industry and associated jobs” over the project's 15-year lifespan, depending on the proportion of logs processed domestically versus exported.<sup>58</sup>

However, the FEIS does not establish that the Project would result in stable or sustained employment, particularly given the acknowledged deficit nature of all proposed sales. As the FEIS itself notes: Total jobs supported depend on the amount of volume offered from sales that can be offered because of a positive appraisal at time of advertisement. In other words, deficit value timber sales cannot be offered for bid under recent appropriations bills and would support “‘zero jobs’.”<sup>59</sup> This admission highlights the speculative nature of employment projections and introduces a variability that effectively washes the FEIS of any meaningful accountability to projected employment support as stated in its Purpose and Need.<sup>60</sup>

The FEIS further concedes that “most of the demand for young-growth timber is for export,” while only “some interest in local processing has been expressed.”<sup>61</sup> Yet the agency does not analyze whether export-driven demand meaningfully benefits local or regional economies beyond stevedoring and transportation jobs, nor does it reconcile this admission with the Project's asserted role in supporting a “local” timber industry during the transition to young-growth management.<sup>62</sup> Export markets provide minimal in-region economic multiplier effects compared to domestic processing, yet the FEIS assumes (again, without analysis) that export-based employment is equivalent to sawmill employment for purposes of economic justification.<sup>63</sup>

Moreover, the FEIS's baseline socioeconomic data reveal that the southeast Alaska timber industry has continued to contract since the DEIS baseline year of 2019–2020. Table 12 of the

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.* tbl. 18, at 73 (projecting 315 jobs under “maximum export” scenario, 365 jobs under “maximum Alaska manufacturing” scenario for Alternative 2).

<sup>59</sup> *Id.* at 72

<sup>60</sup> The FEIS does not provide a “realistic scenario” employment projection that accounts for the probability that some or all sale packages will remain deficit and thus unsold. Standard economic practice would discount projected employment by the likelihood of sale offer and award. *See* U.S. Forest Service, *Forest Service Handbook 2409.18 – Timber Appraisal Handbook*, ch. 42.33 (risk adjustment in appraisal).

<sup>61</sup> FEIS, App. E at 351.

<sup>62</sup> The Project's Purpose and Need asserts that providing timber “would contribute to maintaining the timber industry during the transition to primarily young-growth management and would provide jobs and other economic opportunities.” *Id.* at 4. If most volume is exported as raw logs, it does not “maintain” local sawmills—it bypasses them.

<sup>63</sup> Economic multiplier analysis distinguishes between “direct,” “indirect,” and “induced” effects. Log export generates direct stevedoring/transport jobs but minimal indirect (supplier) or induced (household spending) effects in the local economy. Domestic processing generates all three. *See* IMPLAN Group LLC, *IMPLAN System* (economic impact modeling software used by USFS Region 10 in other project analyses). The FEIS does not conduct multiplier analysis or distinguish export vs. processing employment effects.

FEIS discloses that timber industry employment in southeast Alaska fell from 563 jobs in 2015 to 274 jobs in 2024, a 51 percent decline.<sup>64</sup> These numbers are likely overstated. Although the FEIS states that timber employment numbers are taken from the annual *Southeast by the Numbers* reports, the number of timber industry jobs listed in table 12 for some years are substantially higher than the numbers reflected in the reports. In 2015, for example, the *Southeast by the Numbers* report actually shows 277 jobs, not the 563 reported in table 12.<sup>65</sup> Today, the timber industry is a very small percent of southeast Alaska's economy, constituting only one percent of regional employment, compared to tourism's 20 percent.<sup>66</sup> The idea that the proposed Project would support more timber industry jobs than the number of timber jobs in the entire region today is not rational and the Forest Service does not explain how it believes that this admittedly uneconomic proposal would create these jobs. Further, it relies on 2019 survey data and employment coefficients that were developed before the changes in the market from the Covid pandemic, new tariffs affecting the logging industry, and other changes. The FEIS does not explain how these outdated coefficients are still reliable.<sup>67</sup>

Because it presents a skewed analysis that overstates the employment benefits of the project, the Forest Service violated NEPA. In addition, it cannot meet its NFMA obligation to manage forest resources for multiple uses if it relies on a skewed analysis that misrepresents the benefits of the project and, as described below, underestimates the environmental damage it will cause.<sup>68</sup>

The objectors raised these issues in their DEIS comments, noting that the Forest Service must analyze whether proposed harvest levels meaningfully benefit southeast Alaska communities, rather than merely facilitating log export.<sup>69</sup> Information about timber industry employment and market conditions since 2020 is new information that arose after the opportunity to comment.<sup>70</sup> The FEIS's response that it used the "best available" employment data does not address the fundamental problem: the data are now outdated, and the FEIS provides no updated analysis.<sup>71</sup>

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<sup>64</sup> FEIS at 65, Tbl.12. The seafood processing industry, by comparison, employed 3,109 jobs in 2024 (down 42 percent from 2015), and tourism supported 8,589 jobs. *Id.*

<sup>65</sup> See Rain Coast Data & Southeast Conference, *Southeast Alaska by the Numbers 2016* at 4 (Sept. 2016) (*Southeast by the Numbers 2016*). Compare FEIS at 66, tbl.13 with *id.* at 65, tbl. 12 (showing different numbers of timber industry jobs).

<sup>66</sup> Rain Coast Data & Southeast Conference, *Southeast Alaska by the Numbers 2025* at 2 (Sept. 2025) (*Southeast by the Numbers 2025*).

<sup>67</sup> The 2019 Daniels survey, cited in the FEIS (*see* FEIS at 72), was conducted when southeast Alaska had approximately 400 timber industry jobs. Applying per-MBF employment coefficients from that period to a 2026–2041 project implementation window (when the industry may have 250–300 jobs) inflates projected employment.

<sup>68</sup> See *Natural Res. Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 816 (9th Cir. 2005) ("The law of NFMA requires, and the ROD attempted, a balance among the multiple uses of our national forest lands, including timber harvest and environmental preservation; because a critical part of this balance was interpreted incorrectly by the Forest Service, the district court incorrectly rendered its final decision and final judgment in favor of the government Appellees, dismissing NRDC's claims.").

<sup>69</sup> SEACC *et al.* comments at 4–5.

<sup>70</sup> See 36 C.F.R. § 218.8(c).

<sup>71</sup> FEIS, App. E at 352 (response to employment comments).

**B. The FEIS improperly dismisses the need to evaluate economic tradeoffs and foregone benefits.**

In response to comments requesting disclosure of costs, revenues, and impacts to non-timber industries, the FEIS asserts that “[a] cost/benefit analysis is not required by NEPA.”<sup>72</sup> But NFMA requires the Forest Service to consider the trade-offs between multiple uses of forest resources, and, under NEPA, when an agency chooses to consider economic information, it may not present a skewed analysis.<sup>73</sup> Here, the FEIS uses NEPA’s flexibility as a shield to avoid analyzing the Project’s negative implications for other economic sectors, including commercial fishing, subsistence economies, and recreation and tourism, or the potential benefits to those economic sectors that could result from an alternative focused solely on meeting the economic development aspects of the purpose and need by supporting these important regional industries, instead of clearcut logging..

The FEIS acknowledges that “some resources that can be quantitatively assessed such as tourism cannot be directly attributed to the project area,”<sup>74</sup> but does not explain why this uncertainty justifies omitting any meaningful analysis of foregone economic opportunities. This reasoning is particularly troubling given the substantial body of evidence (some of which is in the FEIS’s own socioeconomic baseline) demonstrating that tourism has become the dominant economic driver in southeast Alaska, dwarfing the timber industry.

Table 12 of the FEIS discloses that in 2024, tourism supported approximately 8,589 jobs in southeast Alaska, compared to timber’s 274 jobs (representing just 1 percent of regional employment).<sup>75</sup> The McDowell Group’s 2018 visitor profile study, cited in the DEIS, documented that Ketchikan hosted over 1 million cruise passengers in 2017, with direct visitor spending totaling \$187 million and supporting approximately 1750 jobs.<sup>76</sup> Updated data from 2023–2024 shows this trend has intensified, with approximately 1.67 million cruise visitors in 2023, with tourism constituting 18 percent of southeast Alaska’s total employment.<sup>77</sup>

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<sup>72</sup> *Id.*, App. E, Response to Issue 1 at 346.

<sup>73</sup> *See, e.g.*, 16 U.S.C. § 528 (requiring national forests to be managed for multiple uses); 42 U.S.C. § 4332(2)(C)(iv) (under NEPA, agencies must discuss “the relationship between short-term uses of man’s environment and the maintenance and enhancement of long-term productivity”); *Nat. Res. Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 816 (9th Cir. 2005).

<sup>74</sup> FEIS, App. E at 352.

<sup>75</sup> *Id.* at 65, Tbl. 12. The table shows timber employment declining from 563 (2015) to 274 (2024), a 49 percent drop; seafood from 7,401 (2015) to 3,109 (2024), a 42 percent drop; and tourism increasing from 4,365 (2015) to 8,589 (2024), a 97 percent increase.

<sup>76</sup> McDowell Group, *Ketchikan Summer Visitor Profile and Economic Impact Analysis* at 1, 34-36 (2018) (cited in DEIS and incorporated by reference in FEIS).

<sup>77</sup> Rain Coast Data & Southeast Conference, *Southeast Alaska by the Numbers 2024* at 2-3 (2024) (*Southeast Alaska by the Numbers 2024*). This annual report is the authoritative source for regional economic data, compiled in partnership with the Alaska Department of Labor and Workforce Development (Alaska Department of Labor). The 2024 edition documents record cruise arrivals (~1.5 million passengers) and notes that tourism wages (\$350 million) now exceed all goods-producing sectors combined.

Yet the FEIS provides no analysis of how the Project’s impacts to scenic values, wildlife viewing opportunities, subsistence access, and aquatic habitat quality might affect this economically dominant sector, or how the recreational and watershed restoration aspects of the Project could support jobs in tourism and recreation. The FEIS’s scenic impacts analysis acknowledges that Alternative 2 would create 1,851 acres of “very low” scenic integrity (down from “moderate”) through clearcut harvest visible from Shelter Cove Road, Saddle Lakes Recreation Area, and Carroll Inlet—areas specifically identified in the 2019 Shelter Cove Recreation Master Plan as priority recreation development zones.<sup>78</sup> The economic consequences of degrading scenic quality in a tourism-dependent region are reasonably foreseeable and quantifiable, yet the FEIS dismisses them on the basis that they “cannot be directly attributed.”<sup>79</sup>

Similarly, the FEIS does not analyze the economic value of commercial and sport fishing that depends on the Project area’s salmon streams and estuarine habitats. Southeast Alaska’s commercial fishing industry supported more than 3,000 jobs in 2024 and constitutes a significantly larger economic sector than timber.<sup>80</sup> The Project proposes 42 miles of new and reconstructed roads, along with 31 miles of temporary roads (Alternative 2), with associated stream crossings, sedimentation risk, and potential barriers to fish passage.<sup>81</sup> While the FEIS provides some analysis of physical impacts to aquatic habitat, it does not monetize or otherwise quantify the economic risk to fisheries if projected habitat degradation materializes.<sup>82</sup>

This pattern of analyzing deficit timber revenues in detail while categorically refusing to analyze foregone benefits in other sectors, results in a distorted and incomplete decision framework that violates NEPA’s requirement for informed decision-making.<sup>83</sup> The objectors raised this issue in 2020, noting that ignoring known economic tradeoffs while advancing deficit timber sales produces an arbitrary analysis.<sup>84</sup> The FEIS’s response does not cure this deficiency.

### **C. The FEIS fails to incorporate changed economic circumstances and new information since 2020.**

Finally, the FEIS does not meaningfully account for changed economic circumstances since issuance of the DEIS in August 2020. The FEIS acknowledges that “future changes in regional and global timber markets . . . can dramatically affect stumpage values and logging costs,”<sup>85</sup> yet

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<sup>78</sup> FEIS at 34, Tbl. 9; *id.* at 7 (SIO amendment description). The Shelter Cove Recreation Master Plan (2019), included as Appendix D to the FEIS, identifies scenic vistas along Shelter Cove Road and at Saddle Lakes as “priority” projects to support tourism and local use. *Id.*, App. D at 12–15.

<sup>79</sup> *Id.*, App. D at 352.

<sup>80</sup> FEIS at 65, Tbl. 12.

<sup>81</sup> *Id.* at 22 (11.1 miles new NFS roads, 30.9 miles temporary roads, 31.9 miles maintenance on closed roads).

<sup>82</sup> The FEIS discloses sediment risk, stream temperature effects, and fish passage barriers, *see id.* at 181–204 (discussing affected environment and impacts to aquatics), but does not translate these physical impacts into economic terms (e.g., lost commercial catch value, reduced sport fishing expenditures).

<sup>83</sup> *See Natural Res. Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 811–12 (9th Cir. 2005) (agency violated NEPA when it provided a skewed economic analysis that inflated the economic benefits of a proposal and discounted its environmental impacts).

<sup>84</sup> SEACC *et al.* comment letter at 5.

<sup>85</sup> FEIS at 63.

does not update its analysis to reflect post-2020 market volatility, rising operating costs, inflation, or the continued contraction of Southeast Alaska's timber industry. Instead, the agency relies on the same employment projections it used in the DEIS, which are based on 2019 data.

Between 2020 and 2026, southeast Alaska's economic landscape underwent substantial changes:

- The COVID-19 pandemic and recovery (2020–2022): southeast Alaska lost approximately 7,000 jobs (17 percent of the workforce) in 2020, with tourism shedding over 4,000 jobs.<sup>86</sup> While most tourism jobs recovered by 2022–2023, the timber sector continued to decline. The FEIS acknowledges the pandemic's impact in general terms but does not adjust its economic baseline or projections to account for these disruptions.<sup>87</sup>
- Inflation and cost escalation: Between 2020 and 2024, the U.S. experienced the highest sustained inflation rates since the early 1980s, peaking at 9.1 percent in mid-2022.<sup>88</sup> Alaska's construction and materials costs rose even faster, driven by supply chain disruptions and labor shortages.<sup>89</sup> The FEIS uses incomplete road construction and logging cost estimates that were developed in 2019–2020 and does not adjust them for observed inflation. Given that Alternative 2's total transportation costs are estimated at \$16.7 million and comprise a significant component of the deficit,<sup>90</sup> a 20–30 percent cost escalation (plausible given observed inflation) would deepen the deficit by millions of dollars per alternative, yet the FEIS does not test this scenario.
- Continued timber industry contraction: As documented in FEIS Table 12, southeast Alaska timber employment fell from 563 jobs (2015) to 274 jobs (2024): a 51 percent decline.<sup>91</sup> These numbers appear to be inflated as they are higher than the numbers provided in the *Southeast Alaska by the Numbers* reports that are cited in support of the table.<sup>92</sup> Likewise, the FEIS lists sawmills and purchasers that are not reflected in the Forest Service's most recent sawmill capacity report.<sup>93</sup> If the Forest Service is basing its job estimates on inaccurate numbers, rather than updating the estimates to account for actual employment data, its projections are arbitrary and overstate any purported

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<sup>86</sup> *Id.*, App. E at 347-48.

<sup>87</sup> *Id.* The FEIS adds a brief COVID-19 discussion in response to comments but does not revise the baseline economic data, employment projections, or FASTR assumptions to account for the pandemic's lasting effects on labor availability, operating costs, or market structure.

<sup>88</sup> U.S. Bureau of Labor Statistics, *Consumer Price Index – All Urban Consumers* (2020–2024). Annual CPI-U increases: 2020 = 1.4 percent; 2021 = 7.0 percent; 2022 = 6.5 percent; 2023 = 3.4 percent; 2024 = 2.9 percent. Cumulative inflation 2020–2024 exceeded 20 percent.

<sup>89</sup> Alaska Department of Labor, *Alaska Economic Trends* at 12–17 (Jan. 2024) (documenting construction cost increases of 25–35 percent in southeast Alaska 2020–2023, driven by supply chain disruptions, fuel costs, and labor shortages).

<sup>90</sup> FEIS at 32, Tbl. 7 (Alternative 2 total transportation costs: \$16,732,717).

<sup>91</sup> FEIS, Tbl. 12.

<sup>92</sup> See, e.g., *Southeast Alaska by the Numbers 2016* at 4 (showing 277 timber jobs in 2015, as compared to the 536 the Forest Service lists in the FEIS at table 12).

<sup>93</sup> Compare FEIS at 67-68, Tbl. 14, with Daniels, J. PhD, Forest Service, *Tongass National Forest: 2023 Sawmill Capacity and Production Report* at 3 (Jan. 2025).

economic benefits, in violation of NEPA.<sup>94</sup> But even if the historic employment numbers are accurate, they reflect a continued decline in timber industry employment and the Forest Service has not explained how it anticipates that this project will create more new timber-related jobs than there are currently in the entire region.

- Updated Timber Supply and Demand Analysis: In June 2025, the Forest Service released the final *Forest Management and Timber Assessment* for the Tongass National Forest Plan Revision, providing updated analysis of timber supply, demand, industry capacity, and economic conditions in Southeast Alaska.<sup>95</sup> This assessment, completed before the FEIS was finalized, contains current data on sawmill capacity, employment trends, market conditions, and the economic viability of timber operations that supersede the 2019 baseline data relied upon in the FEIS. The FEIS does not incorporate or reference this assessment, despite its direct relevance to the Project's economic justifications and Purpose and Need. The failure to consider this contemporaneous analysis of regional timber economics, particularly any findings regarding industry capacity constraints, continued employment declines, or market conditions affecting the feasibility of deficit timber sales, undermines the reliability of the FEIS's economic projections and the reasonableness of proceeding with the proposed logging.

By failing to incorporate this new information or to explain why previously identified economic deficiencies no longer matter, the FEIS violates NEPA's requirement to ensure the professional and scientific integrity of its analysis.<sup>96</sup> Not only this, but the information in question for incorporation such as the updated *Forest Management and Timber Assessment*, come from within the Forest Service and ostensibly overlap with staff who would review this FEIS. NEPA requires agencies to supplement EISs if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.<sup>97</sup> Here, a six-year gap between the DEIS (2020) and FEIS (2026), combined with well-documented economic changes, trigger the duty to update the analysis. The FEIS's failure to do so leaves the decision-maker and public with an outdated and unreliable economic foundation for the Project.<sup>98</sup>

## **VI. The Forest Service's proposed amendment to scenic integrity standards violates NFMA and NEPA.**

The Forest Service is proposing to amend the 2016 Forest Plan prescribed scenic integrity objectives for the majority of the Project area in order to provide for more economically

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<sup>94</sup> *Natural Res. Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 816 (9th Cir. 2005) (Forest Service violated NEPA by using erroneous economic information that skewed the analysis of the project's effects).

<sup>95</sup> U.S. Forest Service, *Forest Management and Timber Assessment: Tongass National Forest Plan Revision* (June 2025) (*Forest Management and Timber Assessment* 2025).

<sup>96</sup> 42 U.S.C. § 4332(2)(D).

<sup>97</sup> *See Warm Springs Dam Task Force v. Gribble*, 621 F.2d 1017, 1023–24 (9th Cir. 1980) (agencies must supplement EISs when significant new information arises between draft and final).

<sup>98</sup> *See Natural Res. Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 816 (9th Cir. 2005) (holding that the Forest Service's reliance on inaccurate or misleading economic information violates NEPA).

attractive timber sales, using more clearcut logging, but this rationale does not hold up to review. The proposed amendment would mean that scenic integrity for the majority of the project area—including in the recreation areas in the Saddle Lakes and Carroll Inlet areas—would be amended to allow for very low scenic integrity instead of the moderate standards currently required under the 2016 Forest Plan. In the proposed amendment, the Forest Service states that the amendment is needed to provide “more opportunity to create positive timber sales and be responsive to fluctuating market conditions” and would also facilitate the transition to young growth production by “offering positive-value timber sales” and, in the long-term, creating future young-growth clearcut logging opportunities.<sup>99</sup> The Forest Service’s own analysis, however, shows that reducing scenic integrity across these areas will not have the intended effect. Rather, a comparison of the alternatives shows that the proposed alternative is *more* expensive per thousand board feet, not less expensive, than an alternative that would have less of an impact on scenery integrity standards.<sup>100</sup> Thus, the rationale for the amendment is arbitrary and does not comply with NFMA requirement to demonstrate a need for the plan amendment.

In addition, the Forest Service violated NEPA because it has not analyzed the effects of the plan amendment to tour operators and their guests or the cumulative effects of piecemeal amendments to changes to the scenic integrity standards in this and other proposed logging projects.

These issues were raised in The Boat Company comment letter and in the SEACC *et al.* comment letter.<sup>101</sup>

**A. The proposed plan amendment would violate NFMA because the Forest Service has not offered a rational basis for amending the 2016 Forest Plan.**

NFMA and the Forest Service’s implementing regulations require forest plans to include components to ensure that “[t]imber harvest would be carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and *aesthetic* resources.”<sup>102</sup> The 2016 Forest Plan carries out this requirement by creating “scenic integrity objectives” to protect important viewsheds, or visual priority routes, including hiking trails, saltwater use areas, public roads, and recreation areas.<sup>103</sup> Forest-wide, “[t]he long-term desired future scenic condition for a specific area is the maintenance of a scenic integrity level that is at least as high as the adopted SIO for that area.”<sup>104</sup> Currently, much of the Saddle Lakes Recreation Area has a high or very high scenic integrity, but the proposed plan amendment would allow those areas to be degraded

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<sup>99</sup> Draft ROD at A1-2 to A1-3.

<sup>100</sup> See FEIS at 77 (showing “indicated advertised rates” between -\$266.88 and -\$82.18 per MBF for alternative 2, the proposed alternative, but values of -\$263.20 to -\$77.77 per MBF for alternative 4, which does not require an amendment to the scenic integrity standards).

<sup>101</sup> See The Boat Company comment letter at 3-5; SEACC *et al.* comment letter at 14-19.

<sup>102</sup> 36 C.F.R. § 219.11(d)(3) (emphasis added); see also 16 U.S.C. § 1604(e)(1); *id.* § 1604(g)(3)).

<sup>103</sup> See 2016 Forest Plan at 4-54 to 4-60 (forest-wide scenery standards and guidelines); *id.* 4-55, n.1 (describing visual priority routes); *id.* at F-22 to F-23 (listing visual priority routes in Ketchikan-Misty Fiords ranger district).

<sup>104</sup> 2016 Forest Plan at 4-54 (SCENE1 I.A.).

to very low scenic integrity instead of the moderate scenic integrity objective provided for under the plan.<sup>105</sup>

These scenic integrity objective standards and guidelines are required plan components that can only be changed through an amendment, which may be based on “a new assessment; a monitoring report; or other documentation of new information, changed conditions, or changed circumstances.”<sup>106</sup> To meet this standard, the Forest Service “must articulate a ‘rational connection between the facts found and the choice made’” to adopt the amendment.<sup>107</sup> It has not done so here.

The only justifications the Forest Service offers for the proposed plan amendment are to allow it to offer more economic timber sales and facilitate the young-growth transition.<sup>108</sup> But, with respect to the first justification, the FEIS shows that all of the action alternatives considered are uneconomic, and the proposed action is the least economic of all the alternatives, with the most negative apparent appraisals.<sup>109</sup> Alternative 4, created to avoid an amendment to the scenic integrity objectives, is still extremely uneconomic, but has a less negative appraisal rate than the proposed alternative.<sup>110</sup> If the Forest Service had considered an alternative that not only avoided changing scenic integrity objectives, but also reduced the overall amount of logging, it might have found that leaving trees intact is less expensive than selling them.

Its second justification, that the scenic integrity objective amendments are needed to facilitate the young-growth transition, is equally irrational. According to the Forest Service’s own recent analysis, there are already more than 400,000 acres of young-growth forest in the Tongass.<sup>111</sup> There is no explanation in the FEIS or Draft ROD of why these existing clearcuts will not be enough to facilitate the young-growth transition, or why clear cuts—rather than selective logging—are required to facilitate a transition.

Because neither of the rationales the Forest Service has offered to explain the need to amend the 2016 Forest Plan are rational or supported by the record, the Forest Service’s proposed amendment, if adopted, would be arbitrary and violate NFMA.<sup>112</sup>

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<sup>105</sup> FEIS at 123 (“The greatest impacts would be seen from the Saddle Lakes Recreation Area VPR (Figure 22), which currently has very high and high existing scenic integrity and is prescribed for management under a moderate SIO.”); *see also id.* at 116-117 (existing scenic integrity and objectives), 121-125 (changes in scenic integrity objectives under proposed amendment).

<sup>106</sup> 36 C.F.R. § 219.13(b)(1); *see also id.* § 219.13(a) (plan components can only be changed through an amendment); *id.* § 219.7(e) (required plan components include standards and guidelines).

<sup>107</sup> *See, e.g., League of Wilderness Defenders/Blue Mountains Biodiversity Project v. Connaughton*, 2014 WL 6977611 at \*28 (D. Or. Dec. 9, 2014) (citing *Lands Council v. Martin*, 529 F.3d 1219, 1228 (9th Cir. 2008)).

<sup>108</sup> Draft ROD at A1-2 to A1-3.

<sup>109</sup> *See* FEIS at 77.

<sup>110</sup> *Id.*

<sup>111</sup> *Forest Management and Timber Assessment* at 19.

<sup>112</sup> *See League of Wilderness Defenders/Blue Mountains Biodiversity Project*, 2014 WL 6977611 at \*28; 36 C.F.R. § 219.11(d)(3); 16 U.S.C. § 1604(f).

**B. The FEIS violates NEPA because it does not evaluate the effects of the scenic integrity objective changes on small boat tour operators.**

A primary purpose of NEPA is to “assure for all Americans . . . esthetically and culturally pleasing surroundings,”<sup>113</sup> and agencies must incorporate “the environmental design arts in planning and in decisionmaking.”<sup>114</sup> Under NEPA, an EIS must include an analysis of “the reasonably foreseeable environmental effects of the proposed agency action.”<sup>115</sup> The Forest Service has not met that standard with respect to the changes to scenic integrity objectives because it does not analyze the effect of the degraded scenery on small tour operators, particularly boat tours, and it does not provide an analysis of other proposed scenic integrity objective amendments that should be considered cumulatively.

The 2016 Forest Plan recognizes that “[t]he outstanding scenery of the Forest is a major attraction for resident and non-resident recreation users.”<sup>116</sup> Small boat tour operators, like The Boat Company, rely on intact scenery to provide a high-quality experience to their clients.<sup>117</sup> Views from marine waterways are particularly important, and tour companies may be forced to alter itineraries to avoid degraded viewsheds, resulting in economic losses to the companies and adversely affecting the visitor experience.<sup>118</sup> Although the FEIS provides a one-paragraph analysis of outfitter and guide use of the area, it does not provide any analysis at all of how boat tourism would be affected by the proposed scenic integrity objective amendment.<sup>119</sup> The Forest Service violated NEPA by entirely failing to analyze these effects on the human environment.<sup>120</sup>

**VII. The proposed Project violates ANILCA because it does not adequately analyze the effects of the project on subsistence resources.**

The FEIS and Draft ROD recognize a significant possibility of a restriction on use of subsistence resources, but they do not provide a site-specific analysis of the Project’s effects on subsistence uses, address effects to important subsistence resources other than deer and fish, or provide any rational basis for concluding the restriction on use of subsistence resources is necessary and uses the minimum amount of lands necessary. For these reasons, the FEIS and Draft ROD, if approved, would violate ANILCA.

These issues are connected to comments raised in SEACC’s comment letter.<sup>121</sup>

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<sup>113</sup> 42 U.S.C. § 4331(b)(2).

<sup>114</sup> *Id.* § 4332(a).

<sup>115</sup> *Id.* § 4332(2)(C)(i).

<sup>116</sup> 2016 Forest Plan at 2-1.

<sup>117</sup> *See* The Boat Company comment letter at 1-2.

<sup>118</sup> *See id.*

<sup>119</sup> *See* FEIS at 144 (outfitter and guide use).

<sup>120</sup> 42 U.S.C. § 4332(2)(C).

<sup>121</sup> *See* SEACC, *et al.* comment letter at 19-21 (commenting on problems with subsistence analysis in draft EIS).

**A. The analysis in the FEIS and Draft ROD violates ANILCA.**

ANILCA protects subsistence uses on federal lands in Alaska and requires federal agencies to make a determination about how any decision to authorize a use of public federal lands will affect subsistence uses.<sup>122</sup> Subsistence is an inherently site-specific activity and the analysis of impacts to subsistence must be sufficiently site-specific to facilitate public understanding of the project.<sup>123</sup> An adequate analysis under ANILCA must, at a minimum, identify “site-specific impacts on subsistence resources, incorporate maps identifying which sites are important for subsistence use generally, and catalogue how and to what extent each community utilizes subsistence resources, including data on per capita consumption.”<sup>124</sup> The FEIS does not meet this standard because it provides only a cursory analysis of subsistence.

The FEIS does not provide enough information for subsistence users, the public, and decision makers to be able to understand what subsistence uses are at risk of restriction in what areas. Although it recognizes there may be changes in deer abundance and distribution and decreases in deer habitat capability as a result of the Project, it does not predict which wildlife analysis areas or community use areas would most likely be affected by these shifts.<sup>125</sup> It also recognizes that resources beyond deer and fish—such as berries, cedar bark, timber, and terrestrial wildlife other than deer—are important to subsistence uses, but it does not provide any analysis at all of whether there may be restrictions in subsistence uses of these resources as a result of the proposed logging Project.<sup>126</sup> In environmental analyses for other logging projects, the Forest Service has provided more site-specific information and analyzed the effects of those projects on a wider variety of important subsistence resources. In the FEIS for the Big Thorne logging project, for example, the Forest Service also considered the effects of that project on food plants, upland game birds, waterfowl, furbearers, and marine mammals.<sup>127</sup> It also attempted to assess how the project proposed in that case would affect hunter demand. While the objectors are not arguing that the Big Thorne FEIS meets the ANILCA standard, it illustrates that the South Revilla FEIS falls far short not only of the legal standard, but also of the standard the Forest Service has applied in other analyses. The South Revilla FEIS violates ANILCA because it does not provide an analysis that allows subsistence users to discern how the likely restriction will affect their uses.

In addition, neither the FEIS nor the Draft ROD provide any rational basis to support the Forest Service’s conclusion that a restriction on use of subsistence resources is necessary or would use the minimum amount of lands necessary. In the Draft ROD, the Forest Service merely recites that the Project is necessary because it “strikes a balance between meeting the resource needs of the public and protecting forest resources,” and uses the minimum amount of public land necessary because it is not possible to avoid all lands used for subsistence.<sup>128</sup> But neither of these

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<sup>122</sup> 16 U.S.C. § 3120(a).

<sup>123</sup> *Se. Alaska Conservation Council v. U.S. Forest Serv.*, 443 F. Supp. 3d 995, 1015-17 (D. Alaska 2020).

<sup>124</sup> *City of Tenakee Springs v. Clough*, 750 F. Supp. 1406, 1422-23 (D. Alaska 1990), *rev’d on other grounds*, 913 F.2d 1308 (9th Cir. 1990).

<sup>125</sup> *See, e.g.*, FEIS at 109-110.

<sup>126</sup> *See Id.* at 108.

<sup>127</sup> *See* Forest Service, Big Thorne Final Environmental Impact Statement at 3-242 to 3-243 (2013).

<sup>128</sup> Draft ROD at 29.

responses answer the relevant questions—is the restriction necessary and could less land be used? Nor can the Forest Service come to the conclusion that the restriction on subsistence is necessary, or that less land could not be used, on the basis of an analysis that, as described in this objection, understates the harms of the Project and still shows few, if any, benefits to the Project. The ANILCA analysis in the FEIS and draft ROD are arbitrary and, if approved, would violate ANILCA.<sup>129</sup>

### **VIII. The FEIS fails to take a hard look at the Project’s potential climate impacts in violation of NEPA.**

Under NEPA, the Forest Service is obligated to analyze the reasonably foreseeable environmental effects of its proposed action.<sup>130</sup> Courts have ruled that the impact of greenhouse gas emissions (GHGs) on climate change is precisely the type of analysis that NEPA requires of federal agencies.<sup>131</sup> Climate change is already causing substantial harm<sup>132</sup> and without “some action, the destabilizing climate will bury cities, spawn life-threatening natural disasters, and jeopardize critical food and water supplies.”<sup>133</sup> Science shows that each ton of carbon dioxide (CO<sub>2</sub>) released into the atmosphere contributes to global warming.<sup>134</sup> The Forest Service must, therefore, consider unquantified effects, recognize the worldwide and long-range character of climate change impacts, and incorporate this analysis of ecological information into its environmental analysis.<sup>135</sup> “Without establishing the baseline conditions . . . there is simply no way to determine what effect the proposed [action] will have on the environment and, consequently, no way to comply with NEPA.”<sup>136</sup> The FEIS minimizes, dismisses, and/or fails to disclose climate change effects from the environmental baseline and ignores that Alternative 2’s impacts must be evaluated based on the already deteriorating, climate-impacted state of the resources, specifically, the carbon storage found in the Tongass’s old-growth stands and soils. The Forest Service fails to consider and disclose how Alternative 2 will worsen climate change

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<sup>129</sup> 16 U.S.C. § 3120(a).

<sup>130</sup> 42 U.S.C. § 4332(2)(C); *Colo. Envtl. Coal. v. Dombeck*, 185 F.3d 1162, 1176 (10th Cir. 1999).

<sup>131</sup> See, e.g., *350 Mont. v. Haaland*, 50 F.4th 1254, 1264-68 (9th Cir. 2022); *Ctr. for Biological Diversity v. Bernhardt*, 982 F.3d 723, 740 (9th Cir. 2020); *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1216-17 (9th Cir. 2008)

<sup>132</sup> *Massachusetts v. EPA*, 549 U.S. 497, 521 (2007) (harms caused by climate change “are serious and well recognized,” and “have already inflicted significant harms” to many resources around the globe); IPCC, *Climate Change 2022, Impacts, Adaptation and Vulnerability*, Summary for Policymakers at 9 (2022) (concluding climate change has already caused substantial damage and irreversible loss among terrestrial and freshwater and oceanic ecosystems, widespread deterioration of ecosystem structure and function, increase in magnitude of extreme heat, mass mortality events on land and in the ocean, and hundreds of local losses of species). Climate change is causing shifts in seasonal timing and forcing thousands of species to shift polewards or to higher elevations, potentially causing population level losses. *Id.*; see, e.g., White, K. *et al.*, *Projecting the future of an alpine ungulate under climate change scenarios*, 24 GLOBAL CHANGE BIOLOGY 1136 (2018) (finding a probability that warmer temperatures associated with climate change will drive genetically unique mountain goats in coastal Alaska up mountain terrain, leading to their “extinction” by 2085).

<sup>133</sup> *Juliana v. United States*, 947 F.3d 1159, 1166 (9th Cir. 2020).

<sup>134</sup> IPCC, *Climate Change 2021, The Physical Science Basis*, Summary for Policymakers at 28 (2021).

<sup>135</sup> See 42 U.S.C. § 4332(2)(A), (B), (D), (I) & (K).

<sup>136</sup> *Half Moon Bay Fishermans’ Marketing Ass’n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988).

by detrimentally affecting the Tongass’s function for carbon storage, making its decision arbitrary and capricious.

The FEIS’s climate analysis is inadequate for two main reasons. First is that the Forest Service inexplicably fails to account for the important function the Tongass National Forest serves as a carbon sink (both its old-growth trees and its soils) at regional, national, and global levels. Second, the FEIS fails to consider that emissions from Alternative 2 will add to already committed emissions from other projects while also failing to calculate the CO<sub>2</sub> emissions from the resulting wood products in a wholistic way, and how these emissions contribute to climate change.

The Forest Service’s failure to address the effects of the Project on carbon storage and emissions are connected to issues raised in SEACC *et. al*’s comment letter at pages 5-13.

**1. The FEIS does not adequately disclose Alternative 2’s potential negative effects on carbon storage.**

The FEIS has not conducted a proper evaluation of the climate impacts associated with lost carbon storage from the Project, including the consequences of not conserving old-growth forests for their carbon storage value and the consequences of not maintaining the Tongass intact as a means of mitigating climate change and buffering its impacts.<sup>137</sup> It is well documented that the increased temperatures due to climate change have already accelerated carbon loss<sup>138</sup> and still the FEIS makes no attempt to identify how and to what extent<sup>139</sup> Alternative 2 will result in the greatest loss of carbon storage of the alternatives considered, despite available tools for doing so. First, the FEIS states, without a reasoned explanation, that the differences among alternatives of total carbon loss are negligible and do not translate to meaningful effects at the regional, national, or global scale.<sup>140</sup> Next, rather than prioritize the conservation of<sup>141</sup> old-growth forests as strategic carbon reserves,<sup>142</sup> Alternative 2 calls for the harvest of 4,343 acres of old-growth timber harvest—the most acreage of any of the four alternatives<sup>143</sup> to the detriment of carbon storage generally. Next, the FEIS does not contemplate, much less characterize, how Alternative 2 will affect the Tongass’s soils by potentially releasing its carbon and thereby negatively affect the surrounding region’s response to climate change.<sup>144</sup> Finally, the FEIS attempts to minimize Alternative 2’s impacts on carbon storage by oversimplifying the Tongass to so-called carbon “boom and bust” cycles. Each of these deficiencies demonstrates how the FEIS is not taking a

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<sup>137</sup> Vynne, C., *The Importance of Alaska for Climate Stabilization, Resilience, and Biodiversity Conservation* at 11-12 (Aug. 23, 2021) (Vynne 2021).

<sup>138</sup> *Id.* at 12.

<sup>139</sup> FEIS at 248.

<sup>140</sup> *Id.*

<sup>141</sup> Vynne 2021 at 12; *see also* DellaSala, D. *et al.*, *The Tongass National Forest, Southeast Alaska, USA: A Natural Climate Solution of Global Significance* at 15 (May 10, 2022) (DellaSala *et al.* 2022).

<sup>142</sup> FEIS at 6, 20, 31, 69.

<sup>143</sup> *Id.* at 6.

<sup>144</sup> McNicol, G. *et al.*, *Large, climate-sensitive soil carbon stocks mapped with pedology-informed machine learning in the North Pacific coastal temperate rainforest*, ENVIRONMENTAL RESEARCH LETTERS at 2 (Jan. 3, 2019).

hard look at all costs because not all costs are properly considered, much less disclosed. The FEIS therefore violates NEPA.<sup>145</sup>

Before considering each of these deficiencies in depth, it is helpful to consider the Tongass's composition, and how both its forests and soils occupy a vital role in mitigating the effects of climate. The Tongass is recognized as playing an important role as "a globally relevant carbon sink" and has the distinction of being one of the most intact coastal temperate rainforests on Earth.<sup>146</sup> At a national and state level, it is estimated that Alaska contributes over 50 percent of total carbon storage for the entire United States.<sup>147</sup> Of this, the Tongass alone contains 20 percent of the total carbon stock from all national forests in the United States<sup>148</sup> and the carbon stores are substantially greater than any other national forest in the country.<sup>149</sup> This extensive and underdeveloped temperate rainforest will play a significant role in storing large amounts of carbon, even at global scale.<sup>150</sup> Protecting Alaska's large and intact forest systems is therefore important for the United States as it considers natural climate solutions within its own borders.<sup>151</sup> Retaining the old-growth forests of the Tongass intact will be essential to providing resiliency in the face of climate change as global temperatures continue to warm, and the forest must be managed in a way that *increases* its ability to remove CO<sub>2</sub> from the atmosphere.<sup>152</sup> Management strategies that promote its conservation and restoration, and that increase carbon storage, are essential to meeting global climate targets.<sup>153</sup> Avoiding the conversion of the vast majority of Earth's remaining, terrestrial habitats—including the Tongass—is essential to staying below 2°C rise in average global temperatures.<sup>154</sup>

The Tongass's naturally functioning ecosystem not only currently stores carbon but also has the potential for new carbon sequestration.<sup>155</sup> With respect to trees, the temperate forests of southeast coastal Alaska store significant carbon in both live and dead tree biomass and the trees are expected to increase that storage potential up to year 2099 if they are allowed to remain intact, even with a certain level of projected future GHG fluctuations.<sup>156</sup> In the Tongass specifically, 26 percent of carbon is stored in live vegetation. The old-growth trees in certain parts of the Tongass are accruing biomass at a rate of approximately a Teragram a year, which makes the unlogged parts of the Tongass immensely important carbon sinks, both at present and in the

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<sup>145</sup> *Sierra Club v. Sigler*, 695 F.2d 957, 979 (5th Cir. 1983).

<sup>146</sup> Shanley, C. S. *et al.*, *Using LiDAR and Random Forest to improve deer habitat models in a managed forest landscape*, 499 *FOREST ECOLOGY AND MANAGEMENT* at 2 (2021); *see also* McNicol *et al.* 2019; Harris, N. L. *et al.*, *Global maps of twenty-first century forest carbon fluxes*, *NATURE CLIMATE CHANGE* (2021) (Harris *et al.* 2021).

<sup>147</sup> Vynne 2021 at 2.

<sup>148</sup> DellaSala *et al.* 2022 at 1; Vynne 2021 at 6.

<sup>149</sup> DellaSala, D. & B. Buma, *Analysis of Carbon Storage in Roadless Areas of the Tongass National Forest* at 1 (2019) (DellaSala & Buma 2019).

<sup>150</sup> Vynne 2021 at 5; *see also* Harris *et al.* 2021 at 2 (stating that 47 percent of global net carbon sink is in temperate forests).

<sup>151</sup> Vynne 2021 at 9.

<sup>152</sup> *Id.* at 13.

<sup>153</sup> *Id.* at 1.

<sup>154</sup> Vynne 2021 at 2.

<sup>155</sup> *Id.*

<sup>156</sup> *Id.* at 8.

future.<sup>157</sup> This is not surprising, given that ongoing carbon sequestration and storage has been measured in forests older than 800 years.<sup>158</sup> Forgoing timber harvests altogether in the Tongass (along with all U.S. public timberlands) would help contribute to a net increase of 43 percent in carbon stores nation-wide, and an increase in the Tongass's sequestration potential.<sup>159</sup> By contrast, when a forest is cut down, anywhere from 66 percent to 80 percent of the stored carbon is released over time as CO<sub>2</sub>, turning forests from carbon sinks to "sources" or "emitters."<sup>160</sup> The U.S. Department of Agriculture has recognized that "timber harvesting, and not land use change or fire, was the largest source of gross emissions from U.S. forests between 2006 and 2010."<sup>161</sup> Globally, deforestation and forest degradation contribute more GHG pollution than the world's entire transportation network.<sup>162</sup>

Thus, the most effective measure for protecting existing carbon stocks is to maintain existing old-growth stands in the Tongass, where tree size and biomass are higher than in younger forests.<sup>163</sup>

Given all this information, the FEIS fails to justify its assertion that any differences between the alternatives with regard to lost carbon storage are negligible.<sup>164</sup> A variety of proposed industrial land uses—like the clear-cutting of 4,343 acres of old-growth timber in a forest system like the Tongass as authorized by Alternative 2<sup>165</sup>—will further diminish the Tongass's incredible carbon storage values by cutting substantial numbers of old-growth trees that store the carbon.<sup>166</sup> The FEIS recognizes that Alternative 2 will have the greatest impact on carbon storage and that Alternative 3 would have the least impact among the action alternatives.<sup>167</sup> Indeed, the FEIS even admits that "total carbon lost could be modelled for individual [harvested growth] stands"<sup>168</sup> but the Forest Service chooses not to do that and instead, arrives at the conclusory statement that the differences between the alternatives do not translate to meaningful effects at the regional, national, or global scale.<sup>169</sup> The Forest Service then relies on rough estimates of carbon losses between Alternatives 2 and 3 to state that an estimated carbon loss difference of 106,928 megagrams of carbon (Mg C) is negligible.<sup>170</sup> But the rough estimates of carbon losses between Alternatives 2 and 3—309,789 Mg C and 202,861 Mg C, respectively—are a difference of magnitude of more than 1.5, which is certainly not negligible.<sup>171</sup> Thus, the FEIS, by its own

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<sup>157</sup> DellaSala & Buma 2019 at 1.

<sup>158</sup> DellaSala, D., *The Tongass Rainforest as Alaska's First Line of Climate Change Defense and Importance to the Paris Climate Change Agreement* at 5 (2016) (DellaSalla 2016).

<sup>159</sup> DellaSala & Buma 2019 at 2.

<sup>160</sup> DellaSala 2016 at 5.

<sup>161</sup> Forest Service, *The U.S. Forest Carbon Accounting Framework: Stocks and Stock Change, 1990-2016* at 14 (Nov. 2015).

<sup>162</sup> DellaSala 2016 at 6.

<sup>163</sup> Vynne 2021 at 5-6.

<sup>164</sup> FEIS at 248.

<sup>165</sup> *Id.* at 6, 20.

<sup>166</sup> Vynne 2021 at 10.

<sup>167</sup> FEIS at 249.

<sup>168</sup> *Id.* at 248.

<sup>169</sup> *Id.*

<sup>170</sup> *Id.* at 248-49.

<sup>171</sup> *Id.*

admission, fails to consider and disclose all the lost carbon storage potential that will result from Alternative 2. The estimates that it does provide are no better, as they minimize the differences.

With respect to soils, they too play an important role in carbon storage.<sup>172</sup> In the Tongass, more than 95 percent of organic carbon is stored in old-growth forests, and most of that is split nearly evenly between woody biomass and soil.<sup>173</sup> While the FEIS recognizes that “approximately 46 percent of the ecosystem carbon is in soil” it makes no attempt to characterize how disruption to soil brought on by timber harvesting activities will contribute to the release of carbon or to the resulting exacerbation of climate change.<sup>174</sup> In order to accurately estimate carbon in soil, the FEIS would need to include soil inventories along with sequestration rates.<sup>175</sup> Yet the FEIS fails to complete this critical analysis. The FEIS even admits that activities like temporary roads affect long-term productivity, and that detrimental soil conditions in harvest units are the result of these kinds of short-term uses.<sup>176</sup> The FEIS also states that soil restoration “may” be necessary if certain soil detrimental conditions are met, without explicitly committing to such restoration.<sup>177</sup> It further recognizes that conversion of productive soils to rock pits, roads, graveled trails, and graveled developed recreation sites is an irreversible commitment of the soil resource because it results in less tree growth.<sup>178</sup> Despite all this, the FEIS does not directly address the issue of soil carbon storage loss. In fact, the FEIS states that the effects of Alternative 2 “would focus on the aboveground carbon pool stored in live woody vegetation”<sup>179</sup> but does not consider possible impacts to carbon storage in soils. Thus, the Forest Service fails to describe, either qualitatively or quantitatively, loss to carbon storage in soils. By not considering, much less disclosing, the permanent and irretrievable loss of carbon storage in soils, the Forest Service is not taking a hard look at foreseeable climate impacts.

Once lost, it takes hundreds to thousands of years to reaccumulate the carbon in both trees and soils to their ecological potential, respectively, and it takes that long to regain that amount of carbon once removed.<sup>180</sup> Thus, protecting both old-growth forests is an important climate-smart strategy that is centered on sequestration and accumulation of organic carbon in order to protect and encourage the expansion of carbon stocks.<sup>181</sup> Yet the FEIS is silent on these issues. It makes passing mention that some old-growth stands may take as long as centuries to re-gain pre-harvest carbon stocks<sup>182</sup> but it fails to calculate the amount of carbon that would be lost to logging these 4,343 acres of old-growth, much less does it grapple with those long-term consequences for carbon storage. The FEIS oversimplifies the carbon cycle in the Tongass by reducing it to “boom and bust” and by implying that forest regrowth is fast and is assured.<sup>183</sup> Specifically, the FEIS

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<sup>172</sup> Vynne 2021 at 6.

<sup>173</sup> DellaSala *et al.* 2022 at 7, 13, 15.

<sup>174</sup> FEIS at 248.

<sup>175</sup> DellaSala 2016 at 10.

<sup>176</sup> FEIS at 252.

<sup>177</sup> *Id.* at 226.

<sup>178</sup> *Id.* at 254.

<sup>179</sup> *Id.* at 248.

<sup>180</sup> Vynne 2021 at 7.

<sup>181</sup> DellaSala *et al.* 2022 at 15.

<sup>182</sup> FEIS at 249.

<sup>183</sup> *Id.* at 245.

makes cursory reference to the Tongass's release of carbon through mortality and disturbances, forest regrowth following mortality events, and the reinitiation of the carbon cycle, without acknowledging that it can take hundreds, if not thousands of years for the forest to reach its former carbon storage potential.<sup>184</sup> The FEIS makes no mention of the consequences to soils and their ability to act as an important carbon stock. The FEIS does not properly disclose this cost.

**2. The FEIS does not disclose or adequately consider emissions and their effects on climate change that will result from Alternative 2.**

The FEIS further claims that “it is difficult to highly uncertain to ascertain the indirect effects of emissions” on climate change.<sup>185</sup> Yet the climate impacts on the Tongass are already documented, including the decline of Alaska yellow-cedar across the region.<sup>186</sup> Climate change will affect ecosystem services that regulate greenhouse gas fluctuations in places like the Tongass.<sup>187</sup> Indeed, prior estimates of net carbon flux from logging scenarios in the Tongass indicate that only a no-logging scenario maintains carbon storage through time.<sup>188</sup> Despite this, the FEIS makes no attempt to characterize the fluctuations within the Tongass and thereby underestimates the impact and consequences that emissions from Alternative 2 will have on climate change. For the reasons below, the FEIS does not properly analyze the direct, indirect, and cumulative impacts of emissions from Alternative 2 on climate change.<sup>189</sup>

First, the FEIS does not consider how Alternative 2's GHG emissions will exacerbate climate change when paired with other logging projects that are already planned. Specifically, committed emissions (defined CO<sub>2</sub> emissions that are annually committed to reach the atmosphere given the total harvested volume in a given year) are anticipated to more than double to approximately 128,374 average metric tons of CO<sub>2</sub> per year 2022 and 2031.<sup>190</sup> Then, from 2032 onward, those emissions will more than double again to 273,492 average metric tons of CO<sub>2</sub> per year.<sup>191</sup> These projected emissions have not been considered in the development of the FEIS. For example, the FEIS simply states “current sources of emissions in the project area are not expected to cumulatively result in non-attainment of NAAQS or have significant adverse impacts.”<sup>192</sup> In

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<sup>184</sup> *Id.*; see also Vynne 2021 at 7.

<sup>185</sup> FEIS at 249.

<sup>186</sup> Shanley, C. S. *et al.*, *Climate change implications in the northern coastal temperate rainforest of North America*, 130 CLIMATE CHANGE 155-170, 165 (Feb. 27, 2015) (Shanley *et al.* 2015).

<sup>187</sup> *Id.* at 158-161, 165 explaining that climate change will increase mean annual temperature and mean annual precipitation while decreasing precipitation as snow. See also Harris *et al.* 2021 at 1-2 explaining that opposing fluxes--defined as CO<sub>2</sub> emissions from sources minus CO<sub>2</sub> removals from carbon sinks--occur simultaneously, and understanding the mechanisms that drive these fluxes, including spatial distribution, is crucial to climate policy. For example, tracking gross emissions separately from gross removals might show that the net annual forest-related GHG flux is either positive or negative, depending on the balance between gross fluxes.

<sup>188</sup> DellaSala 2016 at 4.

<sup>189</sup> *Colo. Env't. Coal. v. Dombeck*, 185 F.3d 1162, 1176 (10th Cir. 1999); see also 40 C.F.R. § 1508.25(c) (1978) (when determining the scope of an EIS, agencies “shall consider” direct, indirect, and cumulative impacts).

<sup>190</sup> DellaSala *et al.* 2022 at 11-12.

<sup>191</sup> *Id.*

<sup>192</sup> FEIS at 248.

making that statement as well as in stating that the effect of proposed emissions on climate change is expected to be minimal, the FEIS completely ignores that its own emissions will combine with the previously mentioned emissions over the next 15 years<sup>193</sup> and contribute to climate change.

Further, the FEIS does not calculate, measure, or otherwise estimate CO<sub>2</sub> emissions from harvested wood products in an accurate and holistic way. For example, a proper estimate of the impact would consider soil organic carbon in wood harvested from forest removal to timber products to primary wood products to end uses, and finally to disposal. It would also necessarily include gross emissions from logging itself, decay of logging residue, decomposition of litter, and loss of soil organic carbon.<sup>194</sup> The FEIS does none of this. It simply states that wood fiber can be used to substitute more energy intensive products like concrete and steel, without calculating or otherwise demonstrating if that will be true for the wood fiber harvested from the Tongass.<sup>195</sup> The FEIS also admits that “[a]lthough more current data on timber product output and disturbance are available” it nevertheless chose to use data from 1910 *only up until 2012*, because that data is “based on nationally consistent data products for carbon estimation.”<sup>196</sup> The FEIS is missing more than a decade’s worth of recent timber product output and disturbance, and therefore its conclusions that, “[c]arbon losses from the forest ecosystem . . . have been relatively small” and that these carbon loss estimates “represent an upper bound” are in doubt.<sup>197</sup> Further, the FEIS claims that carbon stored in wood products after harvesting should be taken into account when calculating how much carbon storage is lost.<sup>198</sup> The FEIS arbitrarily assumes that the final wood products are as effective at carbon storage as maintaining the old-growth forests themselves without providing any support for such a claim. But this assumption is false because the wood products do not store as much carbon or provide long-term carbon storage.<sup>199</sup>

**IX. Approving the proposed Project would violate NFMA’s requirement to maintain species diversity because new science calls into question the effectiveness of the old-growth habitat conservation strategy the Forest Service relies on to meet this mandate.**

Approving the proposed Project would violate the requirement under NFMA and the 2016 Forest Plan to maintain species diversity and viability.<sup>200</sup> To meet these requirements, the Forest Service relies on an old-growth habitat conservation strategy initially developed in 1997 and modified in later amendments to the Plan.<sup>201</sup> The South Revilla FEIS likewise relies on this strategy to protect and maintain viable wildlife populations.<sup>202</sup> But new studies including a study conducted by the Forest Service in support of the ongoing Forest Plan revision, conclude that the

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<sup>193</sup> *Id.* at i, iv, 6.

<sup>194</sup> DellaSala *et al.* 2022 at 6.

<sup>195</sup> FEIS at 245.

<sup>196</sup> *Id.* at 245-246.

<sup>197</sup> *Id.* at 247.

<sup>198</sup> *Id.* at 247.

<sup>199</sup> DellaSala 2016 at 5-6.

<sup>200</sup> See 16 U.S.C. 1604(e), (g)(3)(B); 2016 Forest Plan at 2-1.

<sup>201</sup> See 2016 TLMP ROD at 20; USFS conservation strategy assessment at 7.

<sup>202</sup> FEIS at 87.

old-growth habitat conservation strategy is not functioning as intended and may not be sufficient to meet NFMA's and the 2016 Forest Plan's requirements to maintain diverse, viable populations of species in the Tongass.<sup>203</sup> The Forest Service cannot meet its NFMA obligations by relying on a strategy that its own experts have acknowledged may be inadequate to meet that objective.

The old-growth conservation strategy was initially developed to maintain viable populations of native species. The strategy was designed around eight old-growth associated species, including goshawks, Alexander Archipelago wolves, American marten, and northern flying squirrels, with the idea that protecting these species would also have benefits for other species.<sup>204</sup> The strategy relies on a system of large and small old-growth reserves, along with standards and guidelines adopted under the Forest Plan, to protect habitat for old-growth associated species. At the time it was created, experts critiqued the strategy and its underlying assumptions.<sup>205</sup> New studies, including a study conducted by the Forest Service in support of the ongoing Forest Plan revision, consistent with prior scientific assessments of the strategy, conclude that the old-growth habitat conservation strategy is not functioning as intended and may not be sufficient to meet NFMA's and the 2016 Forest Plan's requirements to maintain diverse, viable populations of species in the Tongass.). For example, in a 2023 study of the Tongass old-growth conservation strategy, expert reviewers identified a number of inadequacies of the strategy:

[W]e conclude that the Tongass Land Management Plan is not meeting expectations of  $\geq 4$  essential assumptions of the WCS. Additional empirical evidence from the literature supports a conclusion that the WCS has not met expectations of maintaining an interconnected old-growth forest ecosystem. Extensive high-grading and disproportional harvest of the most productive forest have substantially reduced old-growth forest abundance and diversity (Albert and Schoen 2012). Expansive even-aged clearcuts produced landscapes that support a fraction of the old-growth obligate species and provide little functional connectivity, isolating wildlife communities in many of the remnant old-growth patches (Smith et al. 2011).<sup>206</sup>

A 2023 Forest Service assessment of the conservation strategy came to similar conclusions and recommended that the Forest Service modify the strategy to address its shortcomings. Among the weaknesses identified, the Forest Service pointed to insufficient protections for goshawks and wolves, a need to consider other species (like marbled murrelets, little brown bats, western screech-owls, and yellow cedar), and expanding corridors that would allow species to migrate

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<sup>203</sup> See Smith, W. & Flaherty, E., *Wildlife Studies on the Tongass National Forest Challenge Essential Assumptions of its Wildlife Conservation Strategy*, J. WILDLIFE MANAGEMENT (2023) (Smith 2023); Berkley, E. et al., *Relevance and Need For the Tongass Old-Growth Conservation Strategy* (revised Jan. 2024) (Berkley et al.).

<sup>204</sup> Berkley et al. at 7.

<sup>205</sup> See, e.g., Smith 2013; Forest Service, Final Environmental Impact Statement, Tongass National Forest Management Plan, App. N (1997) (1997 Forest Plan FEIS).

<sup>206</sup> Smith 2023 at 16.

upslope or north because of climate change.<sup>207</sup> The Forest Service also acknowledged that some 2016 Forest Plan requirements are routinely ignored, including inter-agency reviews of land exchanges that involve the transfer of lands in non-development land use designations often do not occur.<sup>208</sup> The Forest Service assessment specifically pointed to the Alaska Mental Health Trust land exchange that affects the South Revilla Project area as an example of a transfer that should have been reviewed, but was not.<sup>209</sup>

In the FEIS for the South Revilla Project, the Forest Service relied on the 2016 Forest Plan's old-growth habitat conservation strategy to maintain viable populations of wildlife species, stating that the strategy "is integral to protect and provide habitat to maintain viable fish and wildlife species."<sup>210</sup> For example, it stated that "[t]he system of old-growth reserves (OGR) and other non-development LUDS" that make up the habitat conservation strategy "maintain habitat" for goshawks,<sup>211</sup> and that the conservation strategy would mitigate effects for migratory birds.<sup>212</sup> The recent studies undercut the Forest Service's conclusions that the habitat conservation strategy will maintain viable species as required under NFMA, and the Forest Service has not explained how it can meet that obligation in the absence of an effective conservation strategy. Approving the proposed logging project would therefore violate NFMA.

The Forest Service also violated NEPA by failing to consider these new studies in the FEIS.<sup>213</sup> The studies are significant new information relevant to the analysis of the effects of the proposed logging on the Project. It must be considered in a revised or supplemental EIS.<sup>214</sup>

The new studies are properly raised here because they were published after the conclusion of the public comment period.<sup>215</sup>

**X. The Forest Service is violating NFMA and NEPA by failing to protect Alexander Archipelago wolves as required under the Forest Plan and by failing to consider important information about the effects of the proposed logging Project on wolves.**

The Forest Service's failure to protect wolves, as discussed below, was discussed on pages 21-31 of SEACC's comments.

**A. The Forest Service's decision to disregard Forest Plan standards and guidelines was arbitrary and capricious and violates NFMA.**

The proposed Project would violate Forest Plan standards and guidelines for protecting wolves, and the Forest Service has not provided any rationale explanation for deviating from the

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<sup>207</sup> See Berkley *et al.* at 11-21.

<sup>208</sup> Berkley *et al.* at 11.

<sup>209</sup> *Id.*

<sup>210</sup> FEIS at 87; *see also id.* at 95 (marten), 98 (goshawks), 106 (migratory birds).

<sup>211</sup> FEIS at 98.

<sup>212</sup> *Id.* at 106.

<sup>213</sup> FEIS at 260-274.

<sup>214</sup> 42 U.S.C. § 4332.

<sup>215</sup> 36 C.F.R. § 218.8(c).

standards and guidelines it has adopted for maintaining viable wolf populations. Approving the Project would therefore be arbitrary and contrary to NFMA.<sup>216</sup>

Under NFMA, “[a] site-specific project must comply with the standards set forth in the governing forest plan, and a project’s deviation from a standard requires amendment to the forest plan.”<sup>217</sup> The 2016 Forest Plan has a standard and guideline, WILD1.XIV, applicable to protection of the Alexander Archipelago wolf. Foremost, the purpose of WILD1.XIV is to “[i]mplement a Forest-wide program . . . to assist in maintaining long-term sustainable wolf populations.”<sup>218</sup> To that end, WILD1.XIV sets forth a series of criteria applicable to future site-specific actions, such as to “consider” road density when “wolf mortality concerns have been identified,” with an expectation that “0.7 to 1.0 mile [of road] per square mile or less may be necessary;”<sup>219</sup> “[p]rovide, where possible, sufficient deer habitat capability to first maintain sustainable wolf populations;”<sup>220</sup> maintain deer habitat sufficient “to support 18 deer per square mile;”<sup>221</sup> and, “[m]aintain a 1,200-foot forested buffer, where available, around known active wolf dens.”<sup>222</sup>

The DEIS acknowledged that these criteria would likely not be met under the proposed action alternatives, and we provided extensive comments pointing out gaps in the DEIS’ analysis of wolf survival.<sup>223</sup> This, we argued, would violate both NEPA and NFMA if incorporated into a FEIS.<sup>224</sup>

The FEIS repeats many of the DEIS’ mistakes regarding the Project’s impact on wolves. As a preliminary matter, the FEIS openly acknowledges that many of the criteria in WILD1.XIV will not be met under the chosen action alternative.<sup>225</sup> For example, the FEIS notes that deer density standards will likely not be attained under any action alternative:

Alternatives 2, 3 and 4 may not meet Forest Plan standards and guidelines for maintaining 18 deer/mi<sup>2</sup> (Table 28) for [wildlife analysis areas (WAAs)] 406 and 407 because these WAAs are already below 18 deer/mi<sup>2</sup>. Wildlife Analysis Area 405 would meet the guidelines with a [deer habitat capability (DHC)] of a minimum 20.1 deer per square mile at the stem exclusion stage. The deer density

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<sup>216</sup> See 16 U.S.C. 1604(e), (g)(3)(B).

<sup>217</sup> *All. for the Wild Rockies v. U.S. Forest Serv.*, 907 F.3d 1105, 1113 (9th Cir. 2018); see also *id.* (“‘Standards’ are binding limitations typically designed to prevent degradation of current resource conditions.”); *id.* (“Because standards are *binding* limitations on Forest Service’s activity,” violating them “constitutes a clear violation of the NFMA” (emphasis in original)).

<sup>218</sup> 2016 Forest Plan at 4-91 (WILD1.XVI.A).

<sup>219</sup> *Id.* (WILD1.XVI.A.1.c).

<sup>220</sup> *Id.* (WILD1.XVI.A.2).

<sup>221</sup> *Id.* (WILD1.XVI.A.2).

<sup>222</sup> *Id.* (WILD1.XVI.A.3.a).

<sup>223</sup> See generally SEACC *et al.* comments at 20-31.

<sup>224</sup> *Id.* at 21.

<sup>225</sup> See, e.g., FEIS at 93 (“Alternatives 2, 3 and 4 may not meet Forest Plan standards and guidelines for maintaining 18 deer/mi<sup>2</sup>.”).

guideline was meant to assure wolf and deer population resilience, not a population level of either species.<sup>226</sup>

In addition, the FEIS notes that, under Action Alternative 2 (the agency's selected alternative), WAA 406 would increase road densities above the lower end of WILD1.XIV's 0.7-1.0 mi/mi<sup>2</sup> range—as high as 0.75 mi/mi<sup>2</sup>.<sup>227</sup>

Overall, the FEIS estimates that “[t]imber harvest would decrease habitat capability for deer, the primary prey for wolves, for up to *150 years or longer*,” which may lead to “higher risk that there will be insufficient number of deer to sustain both wolves and hunter demand.”<sup>228</sup> And the FEIS acknowledges that the South Revilla Logging Project “may cause wolf home ranges to expand or lead to reductions in pack size or condition.”<sup>229</sup>

Nonetheless, the FEIS seems to dismiss the necessity of following these standards, noting that “[t]he deer density guideline was meant to assure wolf and deer population resilience, not a population level of either species.”<sup>230</sup> Following from this conclusion, the FEIS apparently disregards the Forest Plan's general 18 deer/mi<sup>2</sup> standard for WAAs 406 and 407, based on the fact that “these WAAs are already below 18 deer/mi<sup>2</sup>,”<sup>231</sup> or because “[m]any places on the forest may not meet this number naturally[.]”<sup>232</sup> The FEIS applies this logic in other areas, for example by concluding that “the effects of road density on wolf mortality have not been an issue in WAAs 405, 406, and 407.”<sup>233</sup> It also states that “[the Alaska Department of Fish & Game (ADF&G)] is responsible for determining if there is a wolf mortality risk in the area,” and “they have not made that determination because wolves are stable in [game management unit (GMU)] 1A.”<sup>234</sup>

There are numerous problems with these conclusions as to the project's effects on wolf populations—both as a matter of biology and basic logic. First, the purpose of WILD1.XIV—as stated in its text—is “maintaining long-term sustainable wolf populations.”<sup>235</sup> Thus, to the extent the chosen action alternatives undermines this goal, that choice is inconsistent with NFMA. Moreover, the Forest Service cannot simply point to the fact that wolves are minimally surviving right now as justification for allowing further harm to their populations. This undermines the purpose of both NEPA and NFMA conditions, which is to assess how a proposed federal action will impact environmental values—not simply categorize the values as they exist beforehand.

More importantly, the fact that wolves have marginally survived under current conditions does not mean they will not reach critical levels following a project that worsens survival conditions.

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<sup>226</sup> *Id.*

<sup>227</sup> *Id.*

<sup>228</sup> *Id.* at 92 (emphasis added).

<sup>229</sup> *Id.*

<sup>230</sup> *Id.* at 93.

<sup>231</sup> *Id.*

<sup>232</sup> *Id.* at 358.

<sup>233</sup> *Id.* at 94.

<sup>234</sup> *Id.* at 358.

<sup>235</sup> 2016 Forest Plan at 4-91 (WILD1.XIV.A).

Thus, the Forest Service needs to seriously assess the consequences of approving a logging project that will further reduce populations of deer. This also applies to the consequences of increased roads, which the Forest Service dismisses as a serious concern because “[t]he effects of road density on wolf mortality have not been an issue in WAAs 405, 406, and 407.”<sup>236</sup> This cursory and wholly unsubstantiated conclusion is insufficient to justify the agency’s apparent disregard for the requirements of WILD1.XIV.

Similarly, it is unreasonable for the Forest Service to rely on guesses as to what sort of deer populations existed in the area “naturally” to support a conclusion that further DHC reductions are acceptable.<sup>237</sup> This area has been extensively logged and wolves have been extensively killed over the past century. The question is not what the original DHC was; it is whether still more habitat destruction is consistent with WILD1.XIV.

The FEIS also seems to suggest that it can approve a project that runs afoul of WILD1.XIV because the standards contained within it are not binding. For example, the Forest Service notes that “the biologist should consider additional local factors rather than relying solely on model outputs.”<sup>238</sup> The Forest Service also explains that “[u]se of the words ‘where possible’ and ‘generally considered’ convey that [the minimum deer habitat standard] is not an absolute requirement.”<sup>239</sup>

But the FEIS makes no effort to explain why there are site-specific conditions in the project area that warrant deviation from WILD1.XIV. Indeed, the Forest Service’s logic here appears to be that because wolves are sustainable now, they will still be sustainable following implementation of the logging project.<sup>240</sup> But NEPA requires the agency to take a “hard look” at the environmental impacts *from* its action, not *before* it, and NFMA requires compliance with the applicable Forest Plan—including, in this case, the Plan’s requirement to maintain sustainable populations of Alexander Archipelago wolves.<sup>241</sup>

Moreover, any confusion here over which requirements are “standards” and which are “guidelines” is a consequence of the Forest Service’s own failure to distinguish them in the Forest Plan.<sup>242</sup> And even if the requirements described above are not mandatory—which we do not concede—the Forest Service still must explain why it is appropriate to further reduce DHC when it is already heavily compromised. As currently written, the FEIS makes practically no effort to justify its decision to ignore the values in WILD1.XIV—such as the type of habitat

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<sup>236</sup> FEIS at 94.

<sup>237</sup> *See, e.g., Id.* (noting that deer populations “have never been above that threshold”).

<sup>238</sup> FEIS at 358.

<sup>239</sup> *Id.*

<sup>240</sup> *Cf.* 88 Fed. Reg. 57388, 57391 (Aug. 23, 2023) (noting that Alexander Archipelago wolves are at risk of extirpation in the Prince of Wales Island complex, which is the most heavily logged area of the Tongass).

<sup>241</sup> 42 U.S.C. § 4332; 16 U.S.C. § 1604(i).

<sup>242</sup> 2016 Forest Plan at 1-4 (“Standards in Chapters 3 and 4, which can usually be identified by words such as ‘must’ or ‘will,’ are mandatory requirements or minimums that must be met. Project-level analysis may determine that additional requirements beyond these minimums are necessary.”).

needed to maintain a healthy deer population, as well as the number of deer needed to sustain the wolves.

**B. The Forest Service’s cumulative impacts analysis does not adequately consider impacts from clearcuts on adjacent lands.**

The FEIS’s limited focus on Forest Service lands in its assessment of deer populations and road building—to the exclusion of recently transferred private lands within WAA 405, 406, and 407—is also arbitrary and capricious. Wolf packs do not recognize federal-private land boundaries, which is why the Forest Plan requires the agency to “[i]mplement a *Forest-wide program*, in cooperation with ADF&G and [the U.S. Fish & Wildlife Service], to assist in maintaining long-term sustainable wolf populations.”<sup>243</sup>

As the FEIS acknowledges, the outlook for wolves is even worse when clearcutting on adjacent lands is factored into the analysis. Under the agency’s selected alternative, total road density will reach 0.84 mi/mi<sup>2</sup> in WAA 406.<sup>244</sup> In addition, deer density will be approximately half of the level needed to sustain wolves in WAA 407—9.2 deer/mi<sup>2</sup> at stem exclusion compared to WILD1.XIV’s 18 deer/mi<sup>2</sup> standard.<sup>245</sup> Deer density in WAA 406 will hardly be better, estimated at 11.3 deer/mi<sup>2</sup>.<sup>246</sup> The Project must be evaluated in light of actual conditions within the Project area, which includes the broader circumstances undermining wolf survival in WAAs 405, 406, and 407.

In sum, the Forest Service fails to explain how wolves will not go extinct in the area with less deer to eat, less habitat to use, more roads disrupting denning, and easier road access for hunters and trappers. The agency’s failure to do so is arbitrary and capricious under both NEPA and NFMA.

The Forest Service’s failure to consider the effects of clearcuts on adjacent, transferred lands, was raised in pages 1-2 of SEACC *et. al*’s supplemental comment letter and is also connected to the comments about wolves on pages 21-31 of SEACC *et. al*’s comment letter.

**C. The FEIS fails to consider new information.**

Because it has been more than five years since the Forest Service published its DEIS, it was imperative for the agency to consider new information that came to light during that intervening period.<sup>247</sup> For example, a recent scientific paper, which was not cited in the FEIS, catalogues the failures of the current management approach in the Tongass for Alexander Archipelago wolves.<sup>248</sup> The paper—titled *Wildlife studies on the Tongass National Forest challenge essential assumptions of its wildlife conservation strategy*—takes a careful look at the condition of many

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<sup>243</sup> *Id.* at 4-91 (WILD1.XIV.A) (emphasis added).

<sup>244</sup> FEIS at 95, Tbl. 29.

<sup>245</sup> *Id.* at 95, Tbl. 29; 2016 Forest Plan at 4-91 (WILD1.XIV.A.2).

<sup>246</sup> FEIS at 95, Tbl. 29.

<sup>247</sup> See 36 C.F.R. § 218.8(c) (allowing objectors to raise new information that came to light after the close of public comment period).

<sup>248</sup> Smith & Flaherty 2023.

native species within the Tongass, and it concludes that the current approach is not assuring these species' survival.

Specifically, the paper notes that “[e]xtensive high-grading and disproportional harvest of the most productive forest have substantially reduced old-growth forest abundance and diversity,” and “[e]xpansive even-aged clearcuts produced landscapes that support a fraction of the old-growth obligate species and provide little functional connectivity, isolating wildlife communities in many of the remnant old-growth patches.”<sup>249</sup> Thus, the study finds it “unrealistic” to manage the Tongass “according to a conservation strategy that relies on isolated old-growth forest remnants scattered across vast landscapes of unmanaged, even-aged second growth[.]”<sup>250</sup> The study reaches a fairly dire conclusion as a result:

[W]hen forest management planning and implementation are considered in the context of widespread fragmentation, isolation and endemism, ecological scale, variation and complexity of ecological communities, and an incomplete monitoring plan with substantial gaps in data and analyses, serious questions arise about the effectiveness of the [wildlife conservation strategy] in maintaining widely distributed, viable populations of native wildlife, especially old-growth obligate endemics.<sup>251</sup>

Based on these concerns, the study authors recommend that any future “commercial harvests of old-growth forests should emulate the primary natural disturbance regime (wind) in size of canopy gaps, frequency of occurrence, and landscape conditions . . . and circumstances . . . , which *will prohibit commercial broad-scale clearcut logging*.”<sup>252</sup> This is new, relevant information that was not incorporated into the FEIS. Thus, the Forest Service needs to reevaluate impacts to Alexander Archipelago wolves based on the results of this study.

Another recent study—titled *Genomic Analysis Reveals Inbreeding in an Island Population of Alexander Archipelago Wolves*<sup>253</sup>—adds further information that the Forest Service must evaluate in its NEPA analysis of potential impacts to wolves. According to the study, wildlife populations are generally becoming smaller and more fragmented and isolated due to habitat loss, climate change, and other anthropogenic pressures.<sup>254</sup> These problems are exacerbated for populations living on islands, for which lower genetic diversity and geographic isolation make inbreeding more common.<sup>255</sup> The study authors concluded that these factors have led to lower genetic variation and higher individual inbreeding estimates for island-based Alexander Archipelago wolves, making the populations less resilient to changes in environment.<sup>256</sup> The study findings highlighted the need to consider habitat fragmentation—such as the fragmentation

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<sup>249</sup> *Id.* at 16.

<sup>250</sup> *Id.* at 17.

<sup>251</sup> *Id.*

<sup>252</sup> *Id.* at 18 (emphasis added).

<sup>253</sup> Zarn, K. E., *et al.*, *Genomic Analysis Reveals Inbreeding in an Island Population of Alexander Archipelago Wolves*, *Evolutionary Applications* 18:e70144 (2025) (Wolf Inbreeding Study).

<sup>254</sup> *Id.* at 1.

<sup>255</sup> *Id.*

<sup>256</sup> *Id.* at 2, 11.

resulting from clearcutting<sup>257</sup>—as it relates to wolf survival. The Forest Service should reconsider its decision in light of this new information.

## **XI. The Forest Service fails to analyze and disclose impacts to American marten in violation of NEPA and NFMA.**

American marten are a Management Indicator Species in the Tongass because of their “close association with old-growth forests and . . . susceptibility to habitat fragmentation from forest management practices.”<sup>258</sup> Although the proposed Project would worsen habitat conditions for a number of species, in quantitative terms it would worsen things for marten the most. The FEIS states that the action alternatives, combined with past and foreseeable future management actions, would reduce marten deep snow habitat by 30-60 percent in the project WAAs<sup>259</sup> and “could lead to a decline in population for marten throughout the biogeographic province.”<sup>260</sup> The “quantity and quality of winter habitat is a limiting factor” for marten in southeast Alaska.<sup>261</sup> The Forest Service violates NFMA and NEPA because it fails to address whether this large decline in habitat for marten would cause local extirpation or loss of viability for marten, yet proposes the action alternative causing the most additional habitat loss and raising the most additional viability concerns.<sup>262</sup>

The FEIS provides no estimated marten abundance in the Project area or biogeographic province, nor any sense of the amount of lost winter habitat that the Revillagigedo island population can withstand. It mentions one study about the abundance and diet of American marten in southeast Alaska but doesn’t discuss its management implications.<sup>263</sup> That study found that eight large OGRs contained far fewer than the 25 female martens that the Tongass old-growth habitat conservation strategy assumed large OGRs could support.<sup>264</sup> Maintaining connectivity in the matrix between OGRs is an important landscape feature that can potentially mitigate against the impacts of local extinctions.<sup>265</sup> Relatively wide, roadless, forested corridors would likely best facilitate marten movements.<sup>266</sup>

Marten rely heavily on long-tailed voles as their primary prey, with salmon serving as a preferred second choice if available.<sup>267</sup> Thus, maintaining stream health and managing timber harvest to protect habitat for small mammals and salmon is essential for marten persistence. The FEIS fails

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<sup>257</sup> See, e.g., FEIS at 79 (“Removing old-growth habitat fragments wildlife habitat and leads to a loss of old-growth connectivity important to species including goshawk, deer, wolf, bear, marten, and other species.”).

<sup>258</sup> *Id.* at 95.

<sup>259</sup> *Id.* at 97.

<sup>260</sup> *Id.*

<sup>261</sup> *Id.* at 95.

<sup>262</sup> 16 U.S.C. § 1604(g)(3)(B); *Idaho Sporting Cong. v. Rittenhouse*, 305 F.3d 957 (9th Cir. 2002).

<sup>263</sup> Flynn, R.W. *et al.*, *Abundance, prey availability and diets of American martens: implications for the design of old-growth reserves in southeast Alaska* (Dec. 2004) (Flynn *et al.* 2004) (listed in “References,” DEIS at 259).

<sup>264</sup> *Id.* at iv.

<sup>265</sup> *Id.* at v.

<sup>266</sup> *Id.*

<sup>267</sup> *Id.*

to assess the Project's impacts on connectivity and remaining suitable marten habitat or prey availability in the project area. It does not address the adequacy of the OGR located partially within the project area in supporting marten populations and whether its connectivity to other OGRs or non-development land use designations (LUDs) might operate to reduce the risk of extirpation in the project area or biogeographic province.

In sum, the FEIS provides information suggesting that important marten winter habitat has been significantly reduced and the proposed Project would further reduce it.<sup>268</sup> Marten populations are likely in decline and the Project would exacerbate that decline. But the FEIS fails to assess the implications of these declines or provide any basis to conclude that marten populations will persist in the project area and biogeographic province after the Project is completed. For these reasons, the Project, if approved, would violate NEPA and it would also violate the diversity requirement of NFMA because it does not provide a basis for concluding that marten populations will persist.

These concerns are connected to issues raised about marten in SEACC's comment letter at 31-33.

**XII. The FEIS violates NEPA and NFMA because it fails to address important scientific information regarding Queen Charlotte goshawks and because it fails to disclose information about the location of nests and existing habitat degradation.**

The Forest Service's failures with respect to goshawks are connected to issues raised in SEACC *et. al*'s comment letter at 33-35 or is new information that arose after the comment period and is therefore appropriately raised in this objection.<sup>269</sup>

**A. New scientific literature**

Since our comments, new goshawk science has also emerged. The FEIS violates NEPA because it ignores this significant new information and the Forest Service must prepare a supplemental EIS for the Project to address this information.<sup>270</sup> If the Forest Service approves the Project, it will also violate NFMA because, as described above, the new information calls into question the effectiveness of the 2016 Forest Plan's habitat conservation strategy to protect wildlife, including goshawks.

One of the new studies focuses on goshawk's preference for medium- and high-volume old-growth habitat, and in particular their need for large unbroken tracts of high-volume productive old-growth (POG) forests.<sup>271</sup> At minimum, the FEIS must consider the new information presented by this study in its assessment of the effects of the proposed alternatives on goshawks. The FEIS should also consider the study's recommendations, including its statement that the

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<sup>268</sup> FEIS at 95.

<sup>269</sup> 36 C.F.R. § 218.8(c).

<sup>270</sup> See 42 U.S.C. § 4332(2)(C); *Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 557-58 (9th Cir. 2000) (describing requirement to complete a supplemental EIS).

<sup>271</sup> Ferguson, P. *et al.*, *Best Management Practices for Northern Goshawk Foraging Habitat: Retaining Old Growth Structural Attributes* (Apr. 2023).

authors “do not recommend any [timber] harvest within the remaining suitable or known occupied goshawk foraging (or breeding) territory areas.”<sup>272</sup>

Another new study, discussed in the Alexander Archipelago wolves section, focuses on the Tongass’s wildlife conservation strategy and concludes that additional conservation measures are needed to protect goshawks considering their unique life-history needs and status as a sensitive species.<sup>273</sup> Specifically, the study found that the Tongass is not meeting expectations of at least four essential assumptions in its wildlife conservation strategy because logging has substantially reduced old-growth forest abundance and diversity.<sup>274</sup> At minimum, the FEIS must consider the new information contained in this study, including its findings, in the assessments of the effects of the proposed alternatives on goshawks. The Forest Service should also implement the study’s additional conservation measure recommendations into the Project.

In the Forest Service’s 2024 pre-assessment report, *Relevance and Need for the Tongass Old-Growth Conservation Strategy*, the agency cited this study and other recent goshawk science<sup>275</sup> in support of its acknowledgement of shortcomings in the conservation strategy.<sup>276</sup> Specifically, the report states that:

- The conservation strategy is insufficient with regard to conservation of suitable habitat to create post-fledging areas surrounding more rigidly protected nest stands, to provide adequate forested habitat for fledgling goshawks learning to fly and hunt.<sup>277</sup>
- The conservation strategy is not contributing sufficient secure habitat to sustain breeding pairs of the northern goshawk across southeast Alaska.<sup>278</sup>
- The current Forest Plan’s provisions for 100-acre buffers of unharvested productive old-growth around confirmed goshawk nests is well below the standards recommended by goshawk specialists.<sup>279</sup>

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<sup>272</sup> *Id.* at 2.

<sup>273</sup> Smith and Flaherty Study at 14-18.

<sup>274</sup> *Id.* at 16.

<sup>275</sup> Boyer, C., *Forest Restoration on Haida Gwaii: Implications for Goshawk Habitat* (Dec. 2020); Case, G., *Foraging Ecology of the Northern Goshawk in Coastal British Columbia* (2021); Parks Canada Agency, *Recovery Strategy for the Northern Goshawk laingi subspecies (Accipiter gentilis laingi) in Canada* (2018); Vennesland, R.G., *Analysis of studies on the availability of northern goshawk foraging habitat in known versus randomly generated home ranges on the coast of British Columbia* (2018); McClaren, E.L. et al., *Science-Based Guidelines for Managing Northern Goshawk Breeding Areas in Coastal British Columbia* (2015); Smith, W., *Spatially Explicit Analysis of Contributions of a Regional Conservation Strategy Toward Sustaining Northern Goshawk Habitat*, *Wildlife Society Bulletin* 37(3):649-658 (2013) (Smith 2013).

<sup>276</sup> Berkley, E. et al., *Relevance and Need For the Tongass Old-Growth Conservation Strategy* (revised Jan. 2024) (Berkley et al.).

<sup>277</sup> *Id.* at 12.

<sup>278</sup> *Id.*

<sup>279</sup> *Id.*

- The current Forest Plan’s provisions for 100-acres buffers to last only two years around probable but unconfirmed goshawk nests are inconsistent with known goshawk nesting behavior.<sup>280</sup>

The FEIS must assess the effects of the Project on goshawks, including consideration of the Forest Service’s own acknowledgements and statements in the *Conservation Strategy* report, and the underlying science. The Forest Service should also implement additional measures into the Project that ensure sufficient protections for goshawks, including buffers that comply with standards recommended by goshawk specialists, suitable habitat to create post-fledging areas surrounding more rigidly protected nest stands, and sufficient secure habitat to sustain breeding pairs.

Finally, the Forest Service’s 2025 assessment for the ongoing Forest Plan revision process stated that the Queen Charlotte goshawk is under review for identification as a Species of Conservation Concern.<sup>281</sup> The assessment reached a preliminary finding that threats to Queen Charlotte goshawks “may be substantial.”<sup>282</sup> The Forest Service should acknowledge this preliminary finding in the FEIS and incorporate and consider any other information the Forest Service has gathered as part of its review of the goshawk as a potential Species of Conservation Concern.

## **B. New goshawk detections**

The FEIS removed the statement contained in the DEIS that “[g]oshawk habitat would be inventoried in accordance with Forest goshawk monitoring protocols and the forest plan prior to implementation.”<sup>283</sup> The Forest Plan requires the agency to “[c]onduct inventories to determine the presence of nesting goshawks for proposed projects that affect goshawk habitat.”<sup>284</sup> The deleted statement should be added back into the FEIS.

The goshawk inventory is particularly important in light of the new detections of multiple goshawks in the Project area, including a new goshawk nest near Saddle Lakes.<sup>285</sup> Due to these new goshawk detections, the FEIS recognizes that “more surveys are needed” and that another “probable nest area [] needs follow-up surveys.”<sup>286</sup> The Forest Service must comply with the 2016 Forest Plan’s goshawk inventory requirements. If it has already completed an inventory, that information, including data gathered in the inventory/surveys, should be incorporated into the FEIS’s analysis of the effects of the project alternatives on goshawks. The Forest Service should not issue a final ROD without completing the required goshawk inventory within the project area, incorporating that information into its environmental analysis, and sharing the results of any inventory/surveys with the public via a revised or supplemental FEIS.

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<sup>280</sup> *Id.*

<sup>281</sup> Forest Service, *Species of Conservation Concern Assessment, Tongass National Forest Plan Revision* at 22, Tbl. 2 (June 2025).

<sup>282</sup> *Id.* at 22, Tbl. 2.

<sup>283</sup> DEIS at 25, *compare* FEIS at 26.

<sup>284</sup> 2016 Forest Plan at 4-96 (WILD4.II.A.1.f).

<sup>285</sup> FEIS at 98; *id.*, App. F at 395.

<sup>286</sup> FEIS, App. F at 395.

Currently, the FEIS states that “a buffer is still in development” for the new Saddle Lakes nest,<sup>287</sup> and, more generally, “[n]est habitat and activity buffers are being generated and will be applied prior to implementation.”<sup>288</sup> For the known goshawk nests, including the Saddle Lakes nest, the agency should develop larger buffers as recommended in the new science described above. At minimum, the agency must develop not-less-than 100-acre buffers as required by the 2016 Forest Plan,<sup>289</sup> and include that information and requirement in the FEIS and final ROD, not defer it until after the NEPA process is finished. Failing to comply with the buffers required under the Forest Plan would violate NFMA.

If the Forest Service proceeds with only the minimum, 100-acre buffers, it must issue a supplemental EIS to analyze the effects of the Project on goshawks in light of the new science and the Forest Service’s own acknowledgement, explained above, that the 100-acre buffers required by the Forest Plan provide inadequate protection for goshawks. Again, especially because of the new goshawk detections in the project area, this information is important to developing the agency’s and the public’s understanding of the environmental impacts of the Project on goshawks.

### **C. Our prior comments**

As raised in our prior comments, research shows that the Queen Charlotte goshawk requires a landscape with 40 to 50 percent old-growth forest for adequate nesting and foraging habitat.<sup>290</sup> At the value comparison unit (VCU) level, the final EIS for the 1997 Forest Plan found that each VCU can absorb up to a 33 percent loss in POG and still be expected to sustain adequate habitat to support goshawks.<sup>291</sup> Beyond the 33 percent threshold, risk to goshawk viability increases.<sup>292</sup>

Some of the VCUs and WAAs in the project area are among those with POG already reduced beyond 33 percent, with existing reductions ranging from 26.6 to 55.6 percent.<sup>293</sup> The existing reduction percentages have been adjusted in the FEIS, likely due to the change in acreage of the VCUs and WAAs.<sup>294</sup> For example, the existing reduction for WAA 405 declined from 26.6 to 15 percent but the project area acreage increased from 7,786 to 15,885 acres.<sup>295</sup> This implies that more logging will occur in areas within WAA 405 that had not already been heavily logged.

As stated in the FEIS, under the current conditions, VCUs 7460, 7530, and 7560 are already at increased risk of not supporting goshawks, with more than 33 percent of the suitable habitat harvested.<sup>296</sup> All action alternatives would further increase cumulative risk to goshawks.<sup>297</sup> VCU 7470, which is currently below the threshold at 30, would meet the 33 percent threshold under

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<sup>287</sup> *Id.*

<sup>288</sup> FEIS at 98.

<sup>289</sup> 2016 Forest Plan at 4-95 (WILD4.II.A.1.c).

<sup>290</sup> SEACC *et. al* comment letter at 33-34.

<sup>291</sup> 1997 Forest Plan FEIS, App. N at N-39.

<sup>292</sup> *Id.*

<sup>293</sup> DEIS at 82 & Tbl. 29.

<sup>294</sup> *Compare* DEIS at 82, Tbl. 29 *with* FEIS at 99, Tbl. 33.

<sup>295</sup> *Id.*

<sup>296</sup> FEIS at 99 & Tbl. 33.

<sup>297</sup> *Id.*

the proposed action, alternative 2.<sup>298</sup> WAA 407 is already at 40 percent and, under the proposed alternative, would be increased to 41 percent.<sup>299</sup> WAA 406 is currently just below the threshold, at 27 percent and, under the proposed alternative, would increase to 32 percent, just below the threshold.<sup>300</sup>

As raised in our comments, the Forest Service should evaluate the implications of reducing goshawk habitat under the proposed Project and it should evaluate the benefits of an alternative that avoids clearcuts. Currently, the FEIS fails to do so. The new goshawk science raised above should be incorporated into this analysis.

Further, neither the DEIS nor the FEIS address the specific conservation strategy language raised in our comments:<sup>301</sup>

In [VCUs where more than 33 percent of the productive old growth forest goshawk foraging habitat has been converted to young conifer stands], additional timber harvest units over 2 acres in size must maintain forest stand structure characteristics beneficial to goshawks. These include maintaining an average of 30 percent canopy closure and an average of at least 8 large trees per acre. Where harvest units are less than 2 acres, structural retention is not required, but overall stand removal is limited to the equivalent of a 200 year silvicultural rotation.<sup>302</sup>

The Forest Service should account for the above recommendations of the Conservation Strategy in the design and analysis of the action alternatives. The agency should evaluate the benefits to goshawks from an alternative that avoids clearcuts and complies with the canopy closure, trees per acre, and 200-year rotation parameters noted above. The FEIS should also address the implications of ignoring these parameters—which is what the action alternatives would do. In a project-level assessment, the Forest Service must take a “hard look” at the differences between the alternatives at the project level, but instead it has characterized impacts using a metric of POG reduction that, while relevant, fails to capture the importance and impact of employing or not employing specific goshawk conservation measures.

Regarding the capacity for non-development LUDs to provide goshawk habitat, the DEIS acknowledged that even large OGRs may not be providing sufficient habitat quantity and quality to support all critical life stages for goshawks.<sup>303</sup> But neither the DEIS nor the FEIS specifically discuss the degree to which protected areas are actually providing essential goshawk habitat in the project area or biogeographic province.<sup>304</sup> Addressing this issue could provide additional information relevant to the goshawk conservation implications of the proposed action alternatives. The FEIS violates NEPA because it does not include this analysis.

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<sup>298</sup> *Id.*

<sup>299</sup> *Id.*

<sup>300</sup> *Id.*

<sup>301</sup> SEACC *et. al* comment letter at 34.

<sup>302</sup> 1997 Forest Plan FEIS, App. N at N-40.

<sup>303</sup> See Smith 2013 (describing habitat needs of goshawks).

<sup>304</sup> FEIS at 97-99.

Finally, the 1997 Forest Plan established standards and guidelines for retaining forest structure within some harvest units to help maintain goshawk habitat, but these standards and guidelines were replaced in 2008 with the legacy standard.<sup>305</sup> The legacy standard applies “in VCUs where 33 percent or more of productive old growth has been harvested from 1954 to 2005, or VCUs where less than 33 percent has been harvested but more than 67 percent of the productive old growth is projected to be harvested by end of the Forest Plan horizon.”<sup>306</sup> The FEIS only mentions the legacy standard in passing and does not acknowledge its purpose to meet the intent of the conservation strategy, including maintaining goshawk habitat, or incorporate any discussion of the legacy standard into its goshawk analysis.<sup>307</sup> The FEIS concludes that the legacy standard does not apply to any VCUs in the Project area, other than VCU 7560, stating that the 2016 Forest Plan “requires that VCUs be verified during project-specific planning and analysis to see if the Legacy Standard applies to additional VCUs, based on thresholds identified on Forest Plan pages 4-86 and 4-87. Based on this analysis, there are no additional VCUs where the legacy standard would apply.”<sup>308</sup> The FEIS contains no “analysis” supporting its conclusion that the legacy standard does not apply to any of the other VCUs. As discussed above, the FEIS shows that 33 percent or more of suitable goshawk habitat (POG below 1,000 feet) has already been harvested in at least two other VCUs: 7460 and 7530, in addition to 7560.<sup>309</sup> The Forest Service must show its work in the FEIS and disclose what percentage of POG in each VCU has been harvested, if below 33 percent.

In sum, the proposed action would result in habitat conditions known to risk a failure to support viable goshawk populations over most of the planning area. Yet the FEIS concludes that the action alternatives are “not likely to cause . . . a loss of viability in the Planning Area.”<sup>310</sup> It apparently finds Alternative 2 just as acceptable as Alternatives 3 or 4 in terms of goshawk conservation implications, although it fails to analyze the specific differences among those alternatives.<sup>311</sup> The FEIS’s conclusion regarding goshawk viability is unsupported by and contrary to the available evidence, and therefore arbitrary and capricious.

### **XIII. The Forest Service should not pursue the old-growth logging in the proposed Project because it will have unacceptable impacts on black bears, a keystone species.**

Black bears are a keystone species designated as a Management Indicator Species due to their importance for nutrient cycling and seed dispersal, hunting, recreation, and tourism. Unlike brown bears, black bears have a greater dependence on forested ecosystems. They occupy mid-to low-elevation forests with large diameter trees or other woody structures (*e.g.*, logs, root structures, stumps) for denning habitat.<sup>312</sup> Black bears are highly associated with riparian areas

<sup>305</sup> See Berkley *et al.* at 67; *see also* 1997 Forest Plan FEIS, App. N at N-40 (conservation strategy language).

<sup>306</sup> 2016 Forest Plan at 4-86 (WILD1.IV.D).

<sup>307</sup> See FEIS at 87-88; 2016 Forest Plan at 4-86 to 4-87; *see also* Berkley *et al.* at 67 (describing legacy standard history).

<sup>308</sup> FEIS at 87-88 (internal citation omitted).

<sup>309</sup> *Id.* at 99 & Tbl. 33.

<sup>310</sup> *Id.* at 97.

<sup>311</sup> *Id.*

<sup>312</sup> See, *e.g.*, Porter, B. *et al.*, *Black Bears Select Large Woody Structures for Dens in Southeast Alaska*, JOURNAL OF WILDLIFE MANAGEMENT 85(7):1450-1461 (2021).

while situationally occupying high-elevation burns, meadows, or openings with abundant berry crops.

According to the FEIS, “[p]ast management actions have reduced [black] bear denning habitat by up to 29 percent and foraging habitat along streams up to 38 percent and may have reduced bear populations as a result.”<sup>313</sup> As canopy closure occurs, there is a marked reduction in diversity in understory vegetation, and loss of large woody debris causing a loss in habitat diversity and denning structures for bears.<sup>314</sup> The proposed Project would exacerbate the existing losses of denning and foraging habitat.<sup>315</sup> According to the FEIS, “[t]he ADF&G expects bear numbers to decline as clearcut areas reach the stem exclusion stage. Long-term effects of clearcut logging, even with precommercial thinning, could lead to reductions to bear populations in GMU 1A. The effects of this project with cumulative effects could lead to population declines within the project area and possibly at the biogeographic province.”<sup>316</sup>

The Forest Service states that standard and guideline V can protect bear dens<sup>317</sup> but it strains credibility to think that a few snags left behind in the project area can correct for the unsustainable denning and other habitat losses already present on the landscape. Indeed, ADF&G anticipates further declines in bear numbers within the project area and the larger island and has responded by limiting hunting in GMUs 1, 2 and 3 due to conservation concerns.<sup>318</sup> Despite these warning signs, the preferred Alternative 2 would produce the greatest impact to black bear denning and foraging habitats.<sup>319</sup>

The FEIS violates NEPA because it fails to assess the implications of the AMHT land exchange for bears beyond assuming that conveyed lands would be clearcut. The Forest Service appropriately notes, in the FEIS, that this will further reduce black bear habitat, but the Forest Service did not assess the effects of that habitat reduction, together with project impacts and other foreseeable actions. The Forest Service should more specifically assess this loss of denning and foraging habitat considering the location of the AMHT parcel in relation to project-impacted and surrounding lands, to provide a more spatially explicit account of cumulative impacts to black bears and their habitat.

Finally, increased human access through the construction of the Shelter Cove Road corridor would offer hunters, fishermen, and recreationists increased access to formerly remote salmon streams. As discovered in a 2022 study on black bears in British Columbia, the bears’ salmon consumption “was significantly lower in large streams with regular human presence, suggesting

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<sup>313</sup> FEIS at 101 (internal citation omitted).

<sup>314</sup> *Id.*; see also Davis, H. *et al.*, *Longevity and Reuse of Black Bear Dens in Managed Forests of Coastal British Columbia*, JOURNAL OF WILDLIFE MANAGEMENT 76(3):523-527 (2012).

<sup>315</sup> FEIS at 101-03.

<sup>316</sup> *Id.* at 101 (internal citation omitted).

<sup>317</sup> *Id.* at 395 (referring to 2016 Forest Plan at 4-87).

<sup>318</sup> *Id.* at 102.

<sup>319</sup> *Id.* at 103, Tbl. 35.

that human disturbance can cause a dietary shift in bears that could have important consequences to their fitness.”<sup>320</sup>

The existing and foreseeable impacts to black bears and their habitat are significant and the Forest Service should not approve the proposed logging under this Project because it would have unacceptable additive impacts to bears.

These concerns about black bears are connected to the issues raised on page 2 of The Boat Company’s comment letter.

**XIV. Approving the proposed logging Project would violate NEPA by failing to analyze effects on endemic mammals in the project area and NFMA by failing to comply with Forest Plan standards for protecting endemic species.**

The 2016 Forest Plan’s Standards and Guidelines for endemic terrestrial mammals set an objective to “maintain habitat to support viable populations and improve knowledge of habitat relationships of rare or endemic terrestrial mammals that may represent unique populations with restricted ranges.”<sup>321</sup> To implement this objective, the Forest Service must:

[A.]1. Use existing information on the distribution of endemic mammals to assess project-level effects. If existing information is lacking, surveys for endemic mammals may be necessary prior to any project that proposes to substantially alter vegetative cover (e.g., road construction, timber harvest, etc.). Surveys are necessary only where information is lacking to assess project-level effects.

a) Survey islands smaller than 50,000 acres in total size (e.g., Heceta Island and smaller) that have productive old-growth forest on lands suitable for timber production. Conduct surveys on larger islands if there is a high likelihood that endemic taxa are present and a high likelihood that they would be affected by the proposed project.

b) The extent and rigor of surveys will be commensurate with the degree of existing and proposed forest fragmentation, and potential risk to endemic mammals that may be present.

c) Surveys should emphasize small (voles, mice, and shrews) and medium sized (*ermine and squirrels*) endemic mammals with limited dispersal capabilities that may exist within the project area.

d) Use the most recent inventory protocols for surveys.

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<sup>320</sup> Shardlow, T. F. *et al.*, *The influence of human disturbance on Pacific salmon (Oncorhynchus spp.) in the diet of American black bears (Ursus americanus) in two areas of coastal British Columbia, Canada*, CANADIAN JOURNAL OF ZOOLOGY 100(6):401-417 (2022).

<sup>321</sup> 2016 Forest Plan at 4-93 (WILD1.XIX.A).

[A.]2. Assess the impacts of the proposed project relative to the distinctiveness of the taxa, population status, degree of isolation, island size, and habitat associations relative to the proposed management activity.

[A.]3. Where distinct taxa are located, design projects to provide for their long-term persistence on the island.

B. Consider habitat needs of endemic mammals in design of thinning treatments.<sup>322</sup>

No project-specific surveys for endemics are mentioned in the FEIS. The Forest Service asserts without explanation that the Revilla Island southern red-backed vole is the only endemic that the Project would impact, failing to explain what other endemics occur in the Project area or why they wouldn't be affected.<sup>323</sup> It states that impacts to southern red-backed voles would be minor, mostly because of available habitat outside the Project area that would remain intact.<sup>324</sup> But it also acknowledges that Alternative 2 would reduce Project area POG by 34 percent and “localized permanent gaps in distribution are possible throughout the Project area.”<sup>325</sup> It fails to assess the required factors listed in WILD1.XIX A.2 and offers no project components designed to “provide for their long-term persistence on the island.”

The FEIS should have presented information about endemic mammals in the Project area, and if that information does not exist then the Forest Service should survey the Project area with an emphasis on the species identified in standard and guideline WILD1.XIX, including all voles, which as noted above are also important prey for marten. Either way, it must assess project impacts on these species, including the factors listed above, and design the Project to ensure their long-term persistence on the island. Approving the proposed project without complying with the Forest Plan standards and guidelines for endemics would violate NFMA, and it would also violate NEPA because the Forest Service has not analyzed this information about endemic species in the FEIS.

The Forest Service's failure to consider information about endemics is connected to information raised in SEACC's comment letter at 37-39.

## **XV. The Forest Service violated NEPA by failing to analyze the effects of the Project on aquatic resources.**

In our comments, we pointed out that each of the proposed action alternatives would have negative consequences for aquatic habitat and fishery resources, and we requested that the Forest Service “consider in detail an alternative that excludes any logging and roadbuilding in . . . high value and at-risk watersheds[.]”<sup>326</sup> We specifically pointed out potential harms in high value and at-risk watersheds, including Licking Creek (19010102050402, 19010102060305, and

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<sup>322</sup> *Id.* (WILD1.XIX) (emphasis added).

<sup>323</sup> FEIS at 360.

<sup>324</sup> *Id.* at 103.

<sup>325</sup> *Id.* at 105.

<sup>326</sup> SEACC *et al.* comment letter at 45.

19010102050304) and Shoal Creek (19010102050604 and 19010102050403).<sup>327</sup> Finally, we explained that “[t]here are already 32 red crossings within the project area,” suggesting that “the proposed action will impose additional impacts on watersheds already in an impaired condition.”<sup>328</sup>

The FEIS still fails to address these concerns. For example, the FEIS notes significant data gaps in its analysis, such as the fact that “[s]tream flow, including subsurface flow, and water quality data are unavailable for the project area watersheds.”<sup>329</sup> However, according to the FEIS, “any remaining undocumented resource concerns, including streams, will be documented, mapped, and buffered as appropriate prior to implementation to meet Forest Plan protection standards.”<sup>330</sup> The FEIS also notes that its analysis of aquatic habitat impacts may not represent effects on “smaller watersheds.”<sup>331</sup> Nonetheless, the Forest Service apparently believes these significant data gaps “are not expected to impact this analysis.”<sup>332</sup>

This “act now, evaluate later” approach directly contravenes NEPA’s goal of ensuring reasoned and accountable agency decisionmaking.<sup>333</sup> Indeed, by focusing agencies on environmental impacts before approving an action, NEPA ensures “the agency will not act on incomplete information, only to regret its decision after it is too late to correct.”<sup>334</sup> Instead, the Forest Service must conduct a full analysis of potential impacts to aquatic resources—now, before making a decision, and before any irretrievable commitment of resources.<sup>335</sup>

The fact that the Forest Service presumed—apparently inaccurately—that aquatic habitats impacted by the project would not include at-risk anadromous species was a critical oversight that should be rectified through the issuance of a revised or supplemental EIS. At the least, the agency must take a hard look at the new information to evaluate whether supplementation would be required—not simply issue a FEIS that ignores it altogether.<sup>336</sup>

## **XVI. The Forest Service violated NEPA by failing to analyze the effects of the Project on air quality.**

In the FEIS, the Forest Service concluded, with virtually no analysis, that air quality impacts from the proposed Project alternatives would be insignificant:

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<sup>327</sup> *Id.*

<sup>328</sup> *Id.*

<sup>329</sup> FEIS at 183.

<sup>330</sup> *Id.* at 350.

<sup>331</sup> *Id.* 183-84.

<sup>332</sup> FEIS at 183.

<sup>333</sup> See, e.g., *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1085 (9th Cir. 2011) (holding that agency violated NEPA’s “hard look” requirement by delaying necessary surveys until “post-approval mitigation” because the agency “did not collect this data in the first place, and was therefore unable to consider it during the EIS process”).

<sup>334</sup> *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 371 (1989).

<sup>335</sup> See *Conner v. Burford*, 836 F.2d 1521, 1527 (9th Cir. 1988).

<sup>336</sup> *Idaho Wool Growers Ass’n v. Vilsack*, 816 F.3d 1095, 1107 (9th Cir. 2016).

[D]ue to the short-lived nature of these activities coupled with the dynamic weather patterns throughout [s]outheast Alaska continually circulating airsheds within the project area . . . , no significant adverse effects on air quality are anticipated from these activities under any of the alternatives considered.<sup>337</sup>

In comments, we noted that these assessments of air quality impacts lacked “any estimation of the emissions at issue.”<sup>338</sup> We also pointed out that the Forest Service’s conclusion that pollution would be “‘short-lived;’” was “contradicted by the fact that the project is anticipated to require logging, trucking, barging, bulldozing, and chainsawing over a 15-year period.”<sup>339</sup>

The FEIS also excused its failure to disclose air pollution on the grounds that federal and state regulators “have regulatory responsibility under the Clean Air Act to manage emissions from permanent point sources. The enforcement of the applicable regulations by these agencies is anticipated to keep any potential adverse effects within the standards for air quality.”<sup>340</sup> But as our comments pointed out, it is “black-letter law that ‘the existence of permit requirements overseen by another federal agency or state permitting authority *cannot substitute for a proper NEPA analysis.*’”<sup>341</sup> Thus, the mere fact that emissions sources would be subject to state or federal permitting requirements, we explained, “does not allow the Forest Service to avoid taking the required hard look at those impacts,” nor does it categorically mean that “there can be no impacts, or that impacts cannot be significant.”<sup>342</sup> This is because “[m]any air pollutants are not safe at any level, and permit levels set by state and federal [agencies] may be more a matter of policy balancing than a statement as to what levels are safe.”<sup>343</sup>

The FEIS fails to take the requisite “hard look” at air quality impacts from the logging Project. For example, the FEIS fails to make any effort to quantify emissions from the Project,<sup>344</sup> despite the availability of tools for estimating emissions from road construction equipment, heavy machinery, and road dust. The FEIS also concludes that direct effects will be “temporary and limited to the airsheds of specific activity areas” because of the purported “short-lived nature of these activities coupled with the dynamic weather patterns (wind and rain throughout the year) throughout Southeast Alaska continually circulating airsheds within the project area [.]”<sup>345</sup>

As we explained in our comments, whether emissions are temporary, limited in location, or otherwise meet the state’s ambient air quality standard has little bearing on whether they are “significant” as a function of direct impact within the project area.<sup>346</sup> Acute exposure to air

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<sup>337</sup> FEIS at 248.

<sup>338</sup> SEACC *et al.* comment letter at 13.

<sup>339</sup> *Id.* at 13-14.

<sup>340</sup> FEIS at 248.

<sup>341</sup> SEACC *et al.* comment letter at 14; *Sierra Club v. FERC*, 867 F.3d 1357, 1375 (D.C. Cir. 2017) (emphasis added) (citing *Calvert Cliffs’ Coordinating Comm. v. Atomic Energy Comm’n*, 449 F.2d 1109, 1122-23 (D.C. Cir. 1971)).

<sup>342</sup> SEACC *et al.* comment letter at 14.

<sup>343</sup> *Id.*

<sup>344</sup> FEIS at 239, 376-77.

<sup>345</sup> *Id.* at 239-40.

<sup>346</sup> SEACC *et al.* comment letter at 13-14.

pollution can have significant impacts on humans, wildlife, and plants, even if limited in space and time. The Forest Service needs to quantify those emissions and provide a reasoned, empirically based explanation for why those harms are insignificant. Vague and overbroad generalizations are not enough.

The DEIS' air quality analysis also notes that "periodic monitoring of lichens in sensitive ecosystems in wilderness help determine if non-wilderness pollution emissions are impacting wilderness air quality."<sup>347</sup> But as we pointed out in our comments, this "will only provide information about the potentially damaging impacts of air pollution too late—*after* the damage has occurred," whereas "NEPA requires that agencies estimate impacts *before-hand*, so that potential damage can be mitigated or at least accounted for before a decision is made."<sup>348</sup> As in the DEIS, the Forest Service's continued reliance in the FEIS on lichen as a proxy for future air quality impacts does not satisfy NEPA's requirement to assess environmental impacts before a decision is made. Moreover, the lichen monitoring referenced in the FEIS only occurs every 10 years, and outside the project area—on Prince of Wales Island and Misty Fjords Monument Wilderness<sup>349</sup>—further undermining its efficacy for assessing air pollution at the South Revilla project site.

The FEIS' air quality analysis concludes by noting that "the [U.S. Environmental Protection Agency] and the Alaska Department of Environmental Conservation have regulatory responsibility under the Clean Air Act to manage emissions from permanent point sources. The enforcement of the applicable regulations by these agencies is anticipated to keep any potential adverse effects within the standards for air quality."<sup>350</sup> This means, according to the FEIS, that the Project is "not expected to . . . have significant adverse impacts."<sup>351</sup>

As explained in our comments, simply pointing to another agency's permitting authority is not a substitute for NEPA's requirement to assess the environmental impacts of a proposed decision.<sup>352</sup> And as a factual matter, the Forest Service's reliance on permits for "permanent point sources"<sup>353</sup> makes no sense given its separate statement that all emissions are from "temporary" sources like "road maintenance and construction, timber harvest, use of vehicles of all kinds, recreation development and use, and other land management actions."<sup>354</sup> Roads, vehicles, and recreational use are all sources that fall outside state and federal *stationary* source permitting programs,<sup>355</sup> so those programs have little bearing on the significance of air pollution from such ephemeral sources.

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<sup>347</sup> DEIS at 240; *see also* FEIS at 244, 377 (similar).

<sup>348</sup> SEACC *et al.* comment letter at 14 (emphasis in original).

<sup>349</sup> DEIS at 244; *see also* FEIS at 238 (noting 10-year interval for lichen monitoring).

<sup>350</sup> FEIS at 377.

<sup>351</sup> *Id.* at 248.

<sup>352</sup> SEACC *et al.* comment letter at 14; *Sierra Club v. FERC*, 867 F.3d at 1375. .

<sup>353</sup> FEIS at 377.

<sup>354</sup> DEIS at 239.

<sup>355</sup> *See, e.g.*, 42 U.S.C. § 7602(z) (defining "stationary source" as "any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 7550 of this title").

And finally, the FEIS makes no effort to evaluate cumulative impacts from air pollution. As we noted in our comments, the transfer of lands within the Project area to the Alaska Mental Health Trust Authority needs to be included in this analysis.<sup>356</sup> All of these lands will likely be clearcut concurrently with the implementation schedule for the proposed Project, meaning that air pollution impacts will be exacerbated by logging occurring simultaneously on both federal and non-federal lands. The FEIS should have evaluated these cumulative impacts, and the failure to do so violates NEPA.

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For all of the reasons described above, approving the proposed Project would violate NEPA, NFMA, ANILCA, and the APA. We ask the Forest Service to reconsider its decision and either adopt the No Action alternative or remove the logging from the Project and allow the restoration and recreation activities to proceed.

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<sup>356</sup> SEACC *et al.* comment letter at 30; SEACC *et al.* supplemental comment letter at 2.

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