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First name: Sidney

Last name: Smith

Organization: American Exploration & Mining Association

Title:

Comments: AEMA comments

Greetings,

Attached are comments from the American Exploration and Mining Association on the Draft Environmental Impact Statement for the proposed Alaska Roadless Rule. Please contact me if you have any questions. Thank you for this opportunity.

Sidney Smith

Government Affairs Manager

American Exploration & Mining Association

The following text was copy/pasted from an attached letter. The system cannot display the formatting, graphics, or tables from the attached original.

December 16, 2019

Alaska Roadless Rule

USDA Forest Service, Alaska Region

Ecosystem Planning and Budget Staff

P.O. Box 21628

Juneau, Alaska 99802-1628.

Re: Comments on Draft Environmental Impact Statement (DEIS) for Alaska-specific Roadless Rule.

Thank you for the opportunity to provide these comments on behalf of the American Exploration & Mining Association (AEMA) on the Draft Environmental Impact Statement (DEIS) for the Alaska-specific Roadless Rule, noticed in the Federal Register on October 30, 2019.

AEMA is a 124-year old, 1,800-member national association representing the minerals industry with members residing in 44 U.S. states, seven Canadian provinces or territories, and 10 other countries. We are the recognized national voice for exploration, and represent the entire mining life cycle, from exploration to reclamation and closure. In addition to this nationwide voice, several of our members live and work in Alaska and are directly affected by this rulemaking process.

We lend our voice to tens of thousands of Alaskans, the State of Alaska and Alaska's

Congressional Delegation in urging the U.S. Department of Agriculture (USDA) to exempt the entire Tongass National Forest from application of the 2001 Roadless Rule for the reasons given by Governor Bill Walker in his January 18, 2018 Petition for Rulemaking (Petition). Every Alaska Governor and Congressional Delegation member since the Roadless Rule was promulgated in 2001 has supported Total Exemption of the Tongass from the 2001 Roadless Rule.

AEMA appreciates the fact that the Secretary selected Alternative 6 - Total Exemption - as the preferred alternative because:

[T]he Department [gave] substantial weight to the State's policy preferences as expressed in the incoming Petition. The State's preference to emphasize rural economic development is consistent with the findings of the Interagency Task Force on Agricultural and Rural Prosperity established by Executive Order 13790 (issued April 25, 2017). USDA recognizes that ensuring rural Americans can achieve a high quality of life is one of the foundations of prosperity. That State's views on how to balance economic

development and environmental protection offer valuable insight when making management decisions concerning NFS land in Alaska.<sup>1</sup>

AEMA also appreciates the fact that Total Exemption has also been USDA's policy preference for managing the Tongass since its 2003 Rulemaking because: "[T]he social and economic hardships to Southeast Alaska outweigh the potential long-term ecological benefits because the Tongass Forest plan adequately provides for the ecological sustainability of the Tongass."<sup>2</sup> This policy determination has never been changed by the Department.

Importantly, total exemption would exchange the 2001 Roadless Rule's inflexible prohibitions on access and development in the Tongass, for the more flexible Tongass National Forest Planning process. Since the goal of the 2016 Tongass Transition Plan is to foster change, it is only logical to use the more flexible land planning system to accommodate achievement of that goal. As USDA correctly states:

[T]he proposed rule would return decision-making authority to the Forest Service, allowing decisions concerning timber harvest, road construction and roadless area management on the Tongass National Forest to be made by local officials on a case by case basis.<sup>3</sup>

USDA made the same point in its 2003 Rule: "Accomplishment of social, economic, and biological goals can best be met through the management direction established through the Tongass Forest Plan."<sup>4</sup>

AEMA appreciates the fact that the USDA intends to advance Roadless Priority for Alternatives 2, 3, 4, and 5 as part of the rulemaking:

The Roadless Priority ARA is similar to the 2001 Roadless Rule but is less restrictive and addresses Alaska-specific concerns. Specifically, it provides for infrastructure development to connect and support local communities, and road construction/reconstruction for access to renewable energy and leasable minerals. The leasable minerals exception provides for geothermal, oil, gas, and/or coal development. In addition, the Roadless Priority ARA includes specific exceptions that, while they are allowed under the 2001 Roadless Rule, are included to improve overall clarity.<sup>5</sup>

Unfortunately, there is a major disconnect between these goals and the language used in Appendix G to implement them. Alternatives 2 -5 of Appendix G do not include the mandatory language proposed by the Citizen's Advisory Committee (CAC) to implement the new Road Exceptions 8-16 that the CAC proposed be added to 36 C.F.R. [sect] 294.12 and to implement the new Timber Cutting Exceptions 1-8 proposed by the CAC to be added to 36 C.F.R. [sect] 294.13. Instead of the CAC's mandatory regulatory language (which was to be included in each of the Alternatives 2 - 5), USDA has retained exactly the same language that is in the current 2001

1 The right-side column on page 55523 USDA's Notice of Proposed Rule Making (NPRM).

2 68 Fed. Reg. December 30, 2003 75136 at 75141-75142.

3 84 Fed. Reg. October 17, 2019 55522 at 55523. USDA also correctly recognizes that the "proposed exemption would allow forest plan direction to guide other access needs that support isolated rural communities in the unique island archipelago environment of the Tongass National Forest. Id. at 55524.

4 68 Fed. Reg. December 30, 2003 75136 at 75141.

5 DEIS Executive Summary at 5.

Roadless Rule. It thereby retains the same regulatory uncertainty and the same cumbersome process currently in place that inhibits access otherwise authorized by federal law (e.g. the Mining Act of 1872) within Inventoried Roadless Areas (IRAs).

It is remarkable that not one of Appendix G's alternatives 2 - 5 contains the CAC's mandatory regulatory language to implement its proposed New Road Exceptions and proposed New Timber Cutting Exceptions.<sup>6</sup> We respectfully request an explanation from USDA for rejecting the CAC's recommended changes in favor of retaining the current language in 36 C.F.R. [sect] 294.12 and 36 C.F.R. [sect] 294.13.

Because attaining the social and economic benefits of the CAC recommendations is the reason the State of Alaska, its Congressional Delegation and others sought this rulemaking, and because Total Exemption (alternative 6) is the only alternative that would result in implementation of these recommendations, the we strongly urge USDA to adopt Alternative 6 - the Total Exemption Alternative - as the Final Rule.

AEMA also fully endorses and incorporates by reference herein the comments submitted by the Alaska Miners Association. We appreciate your consideration of our comments, and we look forward to continuing provide input as this process moves forward.

Sincerely,

[signature]

Mark Compton  
Executive Director

[Position]

6 Consideration of alternatives is "the heart of the environmental impact statement." 40 C.F.R. [sect] 1502.14. "[A]n agency must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action, and sufficient to permit a reasoned choice." *Alaska Wilderness Recreation v. Morrison*, 67 F.3d 723, 729 (9th Cir.1995) (quoting *Idaho Conservation League v. Mumma*, 956 F.2d 1508, 1520 (9th Cir.1992)).