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Organization: Southeast Regional Advisory Council
Title:
Comments: HC6480

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USDA Forest Service

Attn: Alaska Roadless Rule
P.O. Box 21628

Juneau, Alaska 99802

Dear sirs,

Please see the attached comments on the Roadless Rule. These comments were developed by the Southeast Regional Advisory Council at our noticed FACA meetings in 2018 and 2019 and at working group meetings held by council members to flesh out details of our concerns. These comments have been submitted through official Office of Subsistence Management channels,

A number of council members wish to submit these comments as our INDIVIDUAL comments as well. Council members wish to continue to be engaged in the determination of a final Roadless Rule. By commenting as individuals, we will have standing to participate in whatever appeals may be made after the issuance of a final record of decision.

We strongly support no reduction in the protections that have been provided by the very successful Roadless Rule. We further recommend inclusion of additional lands in the roadless designation. The roadless inventory needs to include lands that were erroneously omitted from the inventory when it was prepared circa 2001. The inventory also needs to include lands that have acquired roadless characteristics after the original inventory was prepared. These are lands that may have had roads built to facilitate industrial logging prior to 2001 but have had no road use for decades; these lands may include decommissioned roads, temporary logging roads that are now reforested in second growth, and other roads that are not useable at this time.

Our extensive comments detail numerous problems with the DEIS and its failure to meet NEPA standards. We are particularly concerned with how the DEIS completely ignored ANILCA Sec. 810 requirements and how the DEIS perpetuates and accentuates a colonial attitude to the Native and rural residents of Southeast Alaska. As we elucidate in some detail, Sec. 810 provides vital statutory protections for subsistence uses of fish and wildlife. Sec. 810 requires thorough examination of subsistence uses in lands affected by proposed federal land use actions, including comprehensive discussion of Native cultural uses, presentation of mapped data showing subsistence use areas and clan and kwaan territories, harvest level data, and cumulative effects of past federal land use actions. An adequate Sec. 810 analysis then leads to a finding of whether or not the proposed federal action "may significantly restrict" subsistence uses. If a positive finding of "significant restriction" is made, then and only then Forest Service must hold Sec. 810 subsistence hearings.

As we have noted, the DEIS did not make the required Sec. 810 finding and actually questioned whether or not Sec. 810 applied to this most significant land use action! The DEIS team has held what it has called "subsistence hearings." In the absence of a Sec. 810 finding, such hearings do not meet the requirements of Title 8 of

ANILCA.

Secondly, we are appalled at the colonial attitude taken by the DEIS team in its interactions with Native and rural people in Southeast Alaska. Forest Service's regional and Tongass NF staff have worked long and hard to redress the colonial attitudes that characterized much of the interaction of Forest Service with local residents of the Tongass. The disrespect shown by the DEIS team sets back the more productive interactions that have taken place since assumption of federal management of subsistence uses on federal land.

Thank you for considering our comments,

Yours truly,

Don Hernandez, Point Baker, Alaska

Harvey Kitka, Sitka, Alaska

Patricia Phillips, Pelican, Alaska

Bob Schroeder, Juneau, Alaska

Elijah Winrod, Klawock, Alaska

Frank Wright Jr., Hoonah, Alaska

Dear Regional Forester Schmid:

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

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

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

¹Section 810 analyses are insufficient. The agencies have completed many of these analyses and thought it is

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

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

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

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

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

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- * The pattern of long term contracting is inflexible over a long period of time and does not allow incremental changes in response to changes in

information. This needs to change to accommodate changes in markets, demographics, and new information;

- * The Council should be commenting on all withdrawals. The Council needs to be involved in Forest Service planning at an early state in order to inform the agency in ways that may prevent many of the problems now inherent in the Section 810 process."

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

This Council has valuable knowledge relevant to the proposed Alaska Roadless Rule issue and its potential

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

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

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

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

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

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

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

would cause significant impacts to certain areas.

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

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

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

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

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

The effects of forest management actions on subsistence are not merely theoretical or

anticipated. In fact, much of the Council's regulatory work addresses restrictions to subsistence uses that have

taken place due to past Forest Service management actions. For example, in its role of providing recommendations on hunting and fishing regulations on Federal public lands, the Council has had to repeatedly consider proposals concerning management of deer on Prince of Wales Island. Because Federally qualified subsistence users have had difficulty in getting the deer that they need, the Council has, somewhat reluctantly, recommended reductions in seasons and harvest limits for deer for non-Federally qualified urban hunters in Game Management Unit 2. These regulatory changes were required largely because of the deleterious effects of timber

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

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

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

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

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

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

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

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

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

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

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

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

4. The Council believes the Cumulative Effects analysis in the DEIS is insufficient. Cumulative effects are defined by the Council on Environmental Quality Regulations as:

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

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

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

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

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

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

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

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

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

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

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

The Council is concerned that opening up roadless areas to logging will encourage a Forest Plan revision or amendment to facilitate further development. When the Council pressed Deputy Chief French on this issue at our meeting, his response was less than reassuring. Although he expressed a commitment to following the existing

Forest Plan, which calls for a rapid transition to second growth management, he also noted that Forest Plans are subject to revisions and amendments. The public is very aware that there has been ardent resistance from timber industry groups to a transition to second growth. We are also aware that there is strong political support from Governor Dunleavy and our Alaska Congressional Delegation for the timber industry and a full exemption from the 2001 Roadless Rule. It is not unreasonable to assume that if hundreds of thousands of acres of forest are reclassified as suitable timber for logging, there will be an effort to revise the Forest Plan to exploit that opportunity. Given that any change to the 2001 Roadless Rule will be a "durable and long lasting regulation" and that Forest Plans are subject to changes at regular intervals, the Council has no confidence that subsistence uses in the roadless areas will be protected for future generations. The continuation of subsistence practices long into the future is foremost the Council's responsibility. Custom and tradition are the heart of the subsistence way of life, and having large blocks of intact habitat where subsistence harvesting can occur in the traditional manner is the only assurance we have that these practices will continue for many generations to come.

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

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

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* (1) "We are profoundly disappointed with the manner the roadless rule exemption process has been handled, especially in regards the federally recognized tribes that involved themselves as "cooperating agencies". It is our opinion that the lead agency has not honored their responsibility to cooperating agencies. Specifically, we point to two sections of the main steps of the NEPA process (40 CFR [sect] 1501.6 Cooperating Agencies) which we do not feel have been met:

* (2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.

* (3) Meet with a cooperating agency at the latter's request.

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

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

"The granting of the State of Alaska's petition for an Alaskan exemption to the 2001 National Roadless Conservation Rule on the Tongass in 2018, without consulting any affected Native peoples, represents the most controversial and potentially destructive assault on our way of life to date. It was clear from the outset that an

Alaska Specific Roadless Rule would not leave current roadless protections in place [mdash] roadless protections were going to be stripped from the lands we have called home since time immemorial."

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

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

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

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

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

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

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

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

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

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

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

1. The Council supports the development of a strong ANILCA Section 819 analysis, which includes an evaluation of cumulative effects needed to make a determination of significant restriction to subsistence uses. A Record of Decision would need to establish a rationale that the action was 'necessary.'

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

"[sect] 805. (a) Except as otherwise provided in subsection (d) of this section, one year after

the date of enactment of this Act, the Secretary in consultation with the State shall establish;

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

2. such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(1))(iv) of this subsection; and

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

1. the review and evaluation of proposals for regulations policies, management plans, and other matters relating to subsistence uses offish and wildlife within the region;

2. the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses offish and wildlife within the region"

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

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

1. gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to [sect]805;

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

3. determines that[mdash]

1. such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands,

2. the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and

3. reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

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

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

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

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

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area involved; and determining that (A) such a significant restriction if subsistence uses is necessary, (B) the proposed activity will involve the minimal amount of public lands necessary, and (C) reasonable steps will be taken to minimize adverse impacts on subsistence uses and resources. The agency must also provide its "may significantly restrict" finding and hearing notices within its environmental impact statement. ANILCA Section 810 hearings are held to inform the public that the land management action may significantly restrict subsistence

uses, to verify the subsistence analysis, and to hear directly from the public concerning the acceptability of the likely restrictions on subsistence uses. The hearings required under ANILCA Section 810 cannot precede the required subsistence finding (FSH2090.23).

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

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

The Council notes that the DEIS states on page 3-328 that "an ANILCA determination may be made in the record of decision, if appropriate," This does not indicate a commitment to follow ANILCA requirements.

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

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

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

1. Available subsistence data including community studies, mapping data showing subsistence use areas, and quantitative data showing harvest levels and participation were inadequately presented and not analyzed. The subsistence data found in the DEIS is wholly inadequate to evaluate impacts on subsistence uses.
2. The scale of presentation is wholly inadequate to see what effects on subsistence uses might take place by community or area.
3. Past Forest Service NEPA documents have considered cumulative effects on subsistence uses. Cumulative effects refer to the results of major changes in the Tongass ecology due to the industrial logging and attendant road building initiated with the long-term sales.

I) The DEIS needs to present the context of ANILCA Section 810 and describe how its requirements have been met in earlier NEPA documents. This is essential for the public to understand the scale and scope of the DEIS.

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

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

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

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

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

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

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

1. Carbon capacity before industrial logging
2. Carbon capacity at present after industrial logging
3. Carbon capacity projection

These requests for meaningful data and analysis were not fulfilled. The DEIS discusses carbon beginning at page 3-121 and continues on the following pages. The DEIS makes no attempt to provide quantitative data on

carbon capacity—past, present, or future. This is a clear failing of the DEIS since it does not present the best available data on this topic. In place of actual data, the DEIS launches into an inconclusive lengthy discussion that befuddles the obvious fact that removing large quantities of timber from the Tongass National Forest reduces the carbon carrying capacity of the forest.

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

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

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

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

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

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

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

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

purpose of the change in the Alaska Roadless Rule is to allow for enhanced development, i.e., logging, in the Tongass National Forest.

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

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

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

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identified as suitable for timber production that were deemed unsuitable solely

due to roadless designation in the Plan would be designated as suitable for timber production."

Additionally,

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

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

The DEIS states that an irreversible or irretrievable commitment of resources will not be made by the rulemaking. It should. Of importance here is an explanation of these commitments in the 2016 Forest Plan, which explained: "Irreversible commitments are decisions affecting nonrenewable resources, such as soils, minerals, plant and animal species, and heritage resources. Such commitments of resources are considered irreversible because the

resource has deteriorated to the point that renewal can occur only over a long period of time or at a great expense, or the resource has been destroyed or removed. While the application of Land Use Designations (LUDs) allowing land-altering activities can indicate the potential for such commitments, the actual commitment to develop, use, or affect nonrenewable resources is made at the project level. The gradual decline in old growth habitat may be considered an irreversible commitment." Irreversible commitments should not be left to the discretion of a project and should be afforded the broader protection under the current 2001 Roadless Rule because of the long-term or permanent harm to habitat.

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

50 exceptions for activities within roadless areas in past years, for a variety of purposes, and that, to his knowledge, all had been approved.

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

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

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

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

In light of the widespread human induced ecological changes in the Tongass National Forest and the progressive environmental degradation that has taken place in forested areas as a result of heavy logging and roading, the Council supports the restoration and rehabilitation of the Tongass National Forest to its natural state. While

resource extraction may have been a rational priority in the 1950s when long-term contracts were negotiated (Ketchikan Pulp Corporation no bid contract signed in 1951, and Alaska Pulp Corporation no-bid contract signed in 1956, allowing

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

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

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

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

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

Inventoried Roadless AreaPlace Name of Wrongly Deleted AreaVCUs

Chichagof (#311)Little Seal Cr.230

West Crab Bay and West Saltery Bay231232

Broad Finger Cr. and Crab Cr.233

246

Broad Cr.246

Hoonah Sound (#328)Ushk Bay and279

Poison Cove280

281

North Baranof (#330)Saook Bay294

East Kuiu (#245)East Kuiu, including No Name Bay,416

Alvin Bay and417

Salt Lagoon418

Neka Mt. (#342)Neka Bay201

Camden (#242)Threemile Arm419

VCU value Cocuanson Unit

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

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

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

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

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

1. Public expenditures for planning and timber harvest management
2. Public expenditures for road building and road maintenance, and
3. Cash return from timber sold

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

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

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The Tongass National Forest has a long history with roadbuilding, particularly in conjunction with timber harvest.

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

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

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

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

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

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

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

"Roadless Area Values and Characteristics

Inventoried roadless areas considered in this rule constitute roughly one-third of all National Forest System lands, or approximately 58.5 million acres. Although the inventoried roadless areas comprise only 2% of the land base in the continental United States, they are found within 661 of the over 2,000 major watersheds in the nation (FEIS Vol. 1, 3 50) and provide many social and ecological benefits. As urban areas grow, undeveloped private lands continue to be converted to urban and developed areas, and rural infrastructure (such as roads, airports, and railways). An average of 3.2 million acres per year of forest, wetland, farmland, and open space were converted to more urban uses between 1992 and 1997. In comparison, 1.4 million acres per year were developed between 1982 and 1992. The rate of land development and urbanization between 1992 and 1997 was more than twice that of the previous decade, while the population growth rate remained fairly constant (FEIS Vol. 1, 3-12). In an increasingly developed landscape, large unfragmented tracts of land become more important. For example, from 1978 to 1994, the proportion of private forest ownerships of less than 50 acres nearly doubled (Birch, 7'.W. 1996. Private forest-land owners of the United States, 1994. Resource Bulletin NE-134. Radnor, PA: USDA Forest Service, Northeastern Experiment Station. 183 p). Subdivision and other diminishment of tract size of these lands can discourage long-term stewardship and conservation.

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

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

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

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2, healthy watersheds catch, store, and safely release water over time, protecting downstream communities from flooding; providing clean water for domestic,

agricultural, and industrial uses; helping maintain abundant and healthy fish and wildlife populations; and are the basis for many forms of outdoor recreation. Sources of public drinking water. National Forest System lands contain watersheds that are important

1. sources of public drinking water. Roadless areas within the National Forest System contain all or portions of 354 municipal watersheds contributing drinking water to millions of citizens. Maintaining these areas in a relatively undisturbed condition saves downstream communities millions of dollars in water filtration costs. Careful management of these watersheds is crucial in maintaining the flow and affordability of clean water to a growing population. Diversity of plant and animal communities.

2. Roadless areas are more likely than roaded areas to support greater ecosystem health, including the diversity of native and desired nonnative plant and animal communities due to the absence of disturbances caused by roads and accompanying activities. Inventoried roadless areas also conserve native biodiversity by serving as a bulwark against the spread of nonnative invasive species.

3. Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land. Roadless areas function as biological strongholds and refuges for

many species. Of the nation's species currently listed as threatened endangered, or proposed for listing under the Endangered Species Act, approximately 25% of animal species and 13% of plant species are likely to have habitat within inventoried roadless areas on National Forest System lands. Roadless areas support a diversity of aquatic habitats and communities, providing or affecting habitat for more than 280 threatened, endangered, proposed, and sensitive species. More than 65% of all Forest Service sensitive species are directly or indirectly affected by inventoried roadless areas. This percentage is composed of birds (82%), amphibians (84%), mammals (81%), plants (72%), fish (56%), reptiles (49%), and invertebrates (36%).

4. Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized classes of dispersed recreation.

Roadless areas often provide outstanding dispersed recreation opportunities such as hiking, camping, picnicking, wildlife viewing, hunting, fishing, cross-country skiing, and canoeing. While they may have many Wilderness-like attributes, unlike Wilderness the use of mountain bikes, and other mechanized means of travel is often allowed. These areas can also take pressure off heavily used wilderness areas by providing solitude and quiet, and dispersed recreation opportunities.

5. Reference landscapes. The body of knowledge about the effects of management activities over long periods of time and on large landscapes is very limited. Reference landscapes of relatively undisturbed areas serve as a barometer to measure the effects of development on other parts of the landscape. Natural appearing landscapes with high scenic quality.

6. High quality scenery, especially scenery with natural-appearing landscapes, is a primary reason that people choose to recreate. In addition, quality scenery contributes directly to real estate values in nearby communities and residential areas.

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1. Traditional cultural properties and sacred sites. Traditional cultural properties are places, sites, structures, art, or objects that have played an important role in the cultural history of a group. Sacred sites are places that have special religious significance to a group. Traditional cultural properties and sacred sites may be eligible for protection under the National Historic Preservation Act. However, many of them have not yet been inventoried, especially those that occur in inventoried roadless areas.

2. Other locally identified unique characteristics. Inventoried roadless areas may offer other locally identified unique characteristics and values. Examples include uncommon geological formations, which are valued for their scientific and scenic qualities, or unique wetland complexes. Unique social, cultural, or historical characteristics may also depend on the roadless character of the landscape. Examples include ceremonial sites, places for local events, areas prized for collection of non-timber forest products, or exceptional hunting and fishing opportunities."

The Alaska Roadless Rule DEIS proposes the following:

"Roadless Area Characteristics [mdash] Resources or features that are often present in and characterize Alaska Roadless Areas, including

1. Physical Environment [mdash] Roadless areas provide high-quality or undisturbed soil, water, and air.

2. Water [mdash] Roadless areas provide a variety of water resources including public drinking water sources, fish and aquatic resources, and hatchery aquatic resources.

3. Diversity [mdash] Roadless areas support a diversity of plant and animal communities including stands of old-growth forests.

4. Habitat [mdash] Roadless areas are expansive areas where high-quality intact habitat exists and ecosystems function with all their native species and components. Roadless areas serve as habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land.

5. Remoteness [mdash] Roadless areas provide economic opportunity due to rich primitive, semi-primitive

motorized, and semi-primitive non-motorized classes of dispersed recreation.

6. Landscape [mdash] Roadless areas provide reference landscapes of relatively undisturbed areas that serve as a barometer to measure the effects of development on other parts of the landscape.

7. Scenery [mdash] Roadless areas have natural-appearing landscapes with high-scenic qualities that people value.

8. Cultural [mdash] Roadless areas are rich in traditional cultural properties and sacred sites. In Alaska indigenous peoples have been on national forests for more than 10,000 years and the forests have cultural significance.

9. Locally-unique characteristics. Roadless areas represent geographic areas with additional locally-unique characteristics specific to Alaska including: (a) important source of subsistence resources including terrestrial wildlife, waterfowl, mammals, fish, and plant-based resources; (b) rich habitat that supports multiple species offish for personal, subsistence, sport, recreation, and commercial harvest; and (c) supports

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diverse economic opportunity that is especially important for rural community well[shy]being."

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

1. The Council questions the use of recommendations from the State of Alaska working FORD.

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

1. The Council believes that the Soutlicentral Regional Advisory Council should have been engaged in the public process in order to comment on how the Proposed Rule would

affect the Chugach National Forest

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

National Forest. On page 1-2 of the DEIS, under Scope and Applicability, it is further stated that:

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

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

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

[sect]294.51 Chugach National Forest.

"(a) Administrative correction or modification of inventoried roadless area designations on the Chugach National Forest may be made as follows: (l) Administrative corrections to boundaries. The Regional Forester for the Alaska Region may issue administrative corrections to the boundaries eon Inventoried Roadless Area after a 30-day public notice and opportunity to comment period. Administrative corrections are limited to adjustments that remedy clerical errors, typographical errors, mapping errors, improvements in mapping technology, conformance to statutory or regulatory changes, or incorporation of changes due to land exchanges.

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

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

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

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

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analyze and respond to the DEIS. At our Council meeting on November 5-7, 2019, we had an opportunity to question Deputy Chief Forester Chris French and Region 10 Planning Director Chad VanOrmer in order to help craft our comments on the proposed rule. Given the time constraints on the Alaska Roadless Rule team, only two hours were allotted for their presentation and our questions. We feel that this was inadequate given the importance and complexity of the issues. The Council also heard testimony from members of the public attending informational meetings and the subsistence hearings (which were happening while the Council was meeting the week of November 4-11) who also felt that they were not given enough time to "digest" the information presented and provide more substantial comments.

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

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

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

Regional Forester Schmid

Sincerely,

[signature]

Donald Hernandez
Chair

Enclosures:

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

November 19, 2018 Tribes letter to Secretary Perdue

cc: Federal Subsistence Board

Southeast Alaska Subsistence Regional Advisory Council Members

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

Greg Risdahl, Acting Deputy Assistant Regional Director

Office of Subsistence Management

Suzanne Worker, Acting Subsistence Policy Coordinator

Office of Subsistence Management

George Pappas, State Subsistence Liaison, Office of Subsistence Management

Tom Kron, Acting Supervisory Program Analyst, Office of Subsistence Management

DeAnna Perry, Southeast Alaska Subsistence Regional Advisory Council Coordinator

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

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

Interagency Staff Committee

Administrative Record

[See attachment containing a letter from Southeast Alaska Subsistence Regional Advisory Council from March 05, 2019]

[See attachment containing a letter from Southeast Alaska Subsistence Regional Advisory Council from July 10, 2019]

[See attachments containing letters from multiple Indigenous Peoples Organizations to Lisa Murkowski, Dan Sullivan, Sonny Perdue, and Don Young requesting an opportunity to meet and discuss the Alaska Roadless Rule]

[Position]