



October 28, 2019

Alaska Regional Forester David Schmidt
Objection Reviewing Officer
U.S. Forest Service, Alaska Region
709 W. 9th Street
Juneau, AK 99801

Re: Objection to Chugach National Forest Plan (August 30, 2019)

Dear Regional Forester David Schmidt,

The Chenega Corporation ("Chenega") files this objection pursuant to 36 C.F.R. part 219, subpart B, to the Chugach National Forest Plan Revision Draft Record of Decision ("Draft ROD"), Final Land Management Plan ("Plan"), and Final Environmental Impact Statement ("FEIS"). Notice of the Draft ROD was published on August 30, 2019. Chugach National Forest Supervisor Jeff Schramm is the responsible official.

Chenega submitted substantive formal comments on the Draft Plan and draft environmental impact statement on December 3, 2018. The following objection is based on Chenega's comments regarding the *Exxon Valdez* Oil Spill ("EVOS") conveyance lands. Chenega commented that the "Draft Plan should include plan components recognizing Chenega's rights with respect to the EVOS conveyance lands." Chenega is qualified to file this objection pursuant to 36 C.F.R. § 219.53.

Chenega objects to the Plan's lack of sufficient plan components for Management Area 6 ("MA6") EVOS-Acquired Lands to accurately and adequately describe the Forest Service's obligations and management goals with respect to the EVOS conveyance lands. The Plan correctly acknowledges that EVOS lands acquired by the United States are subject to restrictive covenants in various conservation easements. MA6-S-1 provides, "[a]ll lands shall be managed consistent with their conservation easement covenants. [Standard]." However, this is not sufficient to give managers, the public or Chenega shareholders and residents sufficient guidance about how the EVOS lands are to be managed. In addition, the EVOS lands are subject to other important management requirements besides the conservation easement covenants that must also be included in the Plan.

The Chenega EVOS lands cover thousands of acres in western Prince William Sound in and around Eshamy Bay and Jackpot Bay and on nearby Chenega Island. The Forest Service has a key role on all of these lands either as the landowner or as the

holder of the conservation easement. Glossing over the Forest Service's objectives and guidelines with a statement that they will be managed in accordance with the conservation easements is not acceptable. It unfairly ignores Chenega's rights in these lands and perpetuates a general lack of knowledge both inside the Forest Service and in the public about how these lands are to be used.

We do not agree with the Forest Service argument that adding any information about the EVOS lands requires including all: "[b]y placing some of the covenant restrictions in the land management plan and leaving others out, lessens [sic] the overall importance of all the restrictions." Obviously, not every restriction and covenant can be added to the Forest Plan, but the fact that EVOS lands are subject to multiple rights and duties cannot be used as an excuse to ignore them.

We request that, with respect to the Chenega EVOS lands, the Plan articulate objectives and guidelines, consistent with the covenants, conditions, and restrictions set forth in the respective deeds, purchase and sale agreements and conservation easements.

For example, the Warranty Deed conveying land from Chenega to the federal government, including Jackpot Bay, reserves subsistence access rights for the residents of Chenega Bay. We request that management goals consistent with these rights be reflected in the Plan.

Another example: Section 5 of the Conservation Easement for Chenega Island obligates the federal government "to provide law enforcement and trespass control and assistance to Chenega in connection with the permitted public access and use" of Chenega Island. Providing this support to Chenega should be stated as a goal in the Plan with respect to Chenega Island.

A third example: the EVOS lands are wholly within a non-motorized use recreation opportunity spectrum. However, pursuant to the Warranty Deed conveying land to the federal government this limitation does not apply to Chenega residents engaged in customary and traditional uses. This is not acknowledged by the Forest Service anywhere in the Plan. Management objectives and guideline which reflect Chenega's rights to motorized use for subsistence purposes should be reflected in the Plan.

These are just examples where the Forest Service should specify objectives and guidelines to guide management of the EVOS lands.

When the Forest Service entered into the EVOS transactions, they undertook a commitment to steward these lands and work with the people of Chenega to protect their rights. Clear guidance will enable the Forest Service to carry out its legal obligations. Absent these changes, the EVOS lands will remain, as they have in the past, unmanaged and ignored.

We also wish to highlight that the rights and duties regarding these lands are not limited to restrictions in the conservation easements. As part of the Subsistence Access Easement contained in the U.S. Warranty Deed, the Forest Service agreed to "manage" the EVOS-acquired lands "in a good faith manner which acknowledges and seeks to preserve the rights described in this easement." That creates an affirmative obligation to recognize and protect Chenega's subsistence access rights regardless of project-level decision-making. By not including any acknowledgment of the special access rights for Chenega residents, the Forest Service is not fulfilling the requirements of the Subsistence Access Easement.

All parties involved in the Prince William Sound EVOS lands have suffered from confusion and lack of clarity about how these lands are to be used and managed. Chenega suggests including the following components in the Plan:

- A map showing the location of all Chenega EVOS lands
- Within two years of Plan approval, explore and develop memoranda of agreements between the Chugach National Forest and affected Alaska Native Village Corporations to provide cooperative management, law enforcement, and trespass control and assistance for EVOS-acquired lands. [Objective]
- Chenega residents' rights to access and use EVOS-acquired lands for customary and traditional uses is acknowledged and preserved. [Desired Condition]
- The Forest Service's objectives with respect to the EVOS lands be specified in the Plan, including (for example) the obligation to provide law enforcement, trespass control and assistance on Chenega Island. [Desired Objective].

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- Chenega requests amending MA6-S-1 to clarify that all lands shall be managed consistent with *a//* EVOS conveyance covenants, and not only the "conservation easement covenants."

We would be happy to work with the Forest Service in developing appropriate additions to the Forest Plan to meet these requests. Thank you for your consideration.

Yours truly,

CHENEGA CORPORATION



Charles W. Totemoff
President & Chief Executive Officer
Lead Objector