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First name: Jay
Last name: Gear
Organization: Coeur Mining
Title: VP - EHS
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Alaska Roadless Rule

www.fs.usda.gov/project/?project=54511

Re: Comments of Coeur Alaska, RIN 0596-AD37, Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska, US Forest Service, USDA.

ACTION: Notice of proposed rulemaking; request for comment.

Coeur Mining (Coeur) hereby submits for consideration the following comments in response to the agency's Advanced Notice of Proposed Rulemaking, 36 CFR Part 294, RIN 0596-AD37, Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska and look forward to participating in the Rulemaking process to improve management of the Tongass National Forest in Alaska. Coeur supports and incorporates herein the comments of the Alaska Miners Association (AMA) and the broad coalition of businesses, associations, rural and urban citizens who support the complete exemption of the Tongass National Forest from the 2001 Roadless Rule. We join the State of Alaska and Alaska's Congressional Delegation in urging the U.S. Department of Agriculture (USDA) to exempt the entire Tongass National Forest from application of the 2001 Roadless Rule for the reasons given by Governor Bill Walker in his January 18, 2018 Petition for Rulemaking (Petition). Every Alaska Governor and Congressional Delegation member since the Roadless Rule was promulgated in 2001 has supported Total Exemption of the Tongass from the 2001 Roadless Rule.

Coeur is a well-diversified, growing precious metals producer with five mines in North America. Coeur produces from its wholly owned operations: the Palmarejo silver-gold complex in Mexico, the Silvertip silver-zinc-lead mine in British Columbia, the Rochester silver-gold mine in Nevada, the Kensington gold mine in Alaska, and the Wharf gold mine in South Dakota. In addition, the Company has interests in several precious metals exploration projects throughout North America. Coeur's Kensington mine is located within the Berners Bay Mining District 45 miles northwest of Juneau, Alaska, and is within the Tongass National Forest. Kensington is an underground gold mining operation that has been owned and operated by Coeur since 1987 with full acquisition in 1995. Coeur has operated on USFS lands for decades as part of its mining operations.

The Kensington mine has been an important economic driver for the Juneau region for over 32 years and currently employing over 380 people, with 41% of our employees from the Juneau community and another 21% of our employees from surrounding Alaska communities. Our mining activities generate over $58 million annually in wages including multiplier impacts. Coeur is the second largest employer in the Juneau region and the 2nd largest tax payer. Coeur works with and supports 59 local community organizations to insure we give back to Juneau and Alaska communities. Additionally, Coeur is proud of our environmental dedication to Alaska. We protect the environment through responsible stewardship, carefully managing our environmental footprint so we can provide for today without compromising the needs of future generations. Coeur Alaska partners with National Marine Fisheries Service and the Alaska Department of Fish and Game to protect wildlife, while managing our impact on the rich biodiversity of Alaska. Coeur Alaska and our mining operation are critical to Southeast Alaska communities.

As the Department is aware, the 2001 Roadless Rule and its application in the Tongass has been fraught with controversy with U.S. Forest Service management and the best interests of the lands caught in the middle. The Tongass National Forest deserves certainty. Congress believed it was providing just that by enacting the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) and the Tongass Timber Reform Act of 1990 (TTRA), protecting millions of acres of the Tongass National Forest. Since that time, the remainder of the Forest has experienced upheaval with the 2001 Roadless Rule as the center of the primary contention. It is time to allow responsible and flexible management of the Tongass utilizing proven forest planning tools that involve public input, and the ability to adapt to management needs, community access needs, and responsible utilization of the non-Wilderness lands by exempting the Tongass from the Roadless Rule.

The 2001 Roadless Rule ties the hands of Federal land managers. Existing Congressional and administrative provisions fully allow the US Forest Service to actively manage, protect and utilize Tongass lands in a manner that protects these lands for generations. The Proposed Rule should return decision-making authority to the Forest Service, allowing decisions concerning timber harvest, road construction and roadless area management on the Tongass National Forest to be made by local officials on a case by case basis based upon existing laws and requirements that insure responsible and active management. USDA agreed in 2003: "Accomplishment of social, economic, and biological goals can best be met through the management direction established through the Tongass Forest Plan."

The analysis set out in the DEIS indicates that removal of regulatory roadless designations and prohibitions on the Tongass National Forest would not cause a substantial loss of roadless protection. The proposed rule would effectively bring only 185,000 acres (~2%) out of 9.2 million designated as inventoried roadless areas (IRAs) on the Tongass National Forest into the set of lands that may be considered for timber harvest. When examined in 2016, the Forest Service projected that only 17,000 acres of old-growth and 11,800 acres of young-growth might be harvested over the next 100 years. That modest addition of suitable timber lands would allow local managers greater flexibility in the selection and design of future timber sale areas. This improved flexibility could, in turn, improve the Forest Service's ability to offer economic timber sales that better meet the needs of the timber industry and contribute to rural economies. Despite the proposed regulatory exemption, the remaining 9 million acres would not be scheduled or expected to be subject to timber harvest activities.

As the nation's largest National Forest, the Tongass is a diverse landscape that has the ability to provide habitat, wilderness, water, timber, minerals, and outdoor recreation to Southeast Alaska and the nation. Surrounding communities are dependent on this landscape to provide jobs, natural resources, recreation and much needed access to energy, other communities and economic development. In 2003 the USDA settled litigation brought by the State of Alaska by agreeing to temporarily exempt the Tongass from the Roadless Rule. USDA recognized:

"Of the 32 communities in the region, 29 are unconnected to the nation's highway system. Most are surrounded by marine waters and undeveloped National Forest System land. The potential for economic development of these communities is closely linked to the ability to build roads and rights of way for utilities to roadless areas of the National Forest System." 68 Fed. Reg. December 30, 2003 75136.

The sheer size and topography of the Tongass insures that these landscapes will remain wild and roadless places. Congress recognized that both conservation and multiple use of the Tongass can co-exist. USDA in 2003 observed:

"Roadless areas are common, not rare, on the Tongass National Forest, and most Southeast communities are significantly impacted by the roadless rule. The Department believes that exempting the Tongass from the prohibitions in the roadless rule is consistent with the congressional direction and intent in the ANILCA and TTRA legislation." 68 Fed. Reg. December 30, 2003 75136.

Furthermore, USDA recognized the unique nature of the Tongass in stating:

"The Department now believes that, considered together, the abundance of roadless values on the Tongass, the protection of roadless values included in the Tongass Forest Plan, and the socioeconomic costs and hardships to local communities of applying the roadless rule's prohibitions to the Tongass, outweigh any additional potential long-term ecological benefits; and therefore warrant treating the Tongass differently from the national forests outside of Alaska." 68 Fed. Reg. December 30, 2003 75136.

And finally, after reviewing ANILCA and the TTRA, USDA found:

"The final rule reflects the Department's assessment of how to best implement the letter and spirit of congressional direction along with public values. In light of the abundance of roadless values on the Tongass, the protection of roadless values already included in the Tongass Forest Plan, and the socioeconomic costs to local communities of applying the roadless rule's prohibitions." 68 Fed. Reg. December 30, 2003 75136.

The findings by the USDA in 2003 are still accurate today and the current Proposed Rule will implement these findings and return active management to the Tongass National Forest. Additionally, the 6.8 million acres of Congressional designations made in ANILCA and the TTRA remain in place. The 2016 Tongass Transition Plan remains in place along with regulations governing forest management and timber sales required by the National Forest Management Act. All significant projects involving timbering, mineral development, transmission corridors and road construction remain subject to all federal environmental laws, including the National Environmental Policy Act.

While many focus on the timbering issues within the Tongass, responsible access across Tongass lands provides important social, economic and sustainable assets for Alaskan communities. Access between communities, access to electricity, transportation, and health care continue to be a challenge across Alaska and Southeast Alaska is particularly burdened by these challenges. As previously stated, of the 32 communities in the region, 29 are unconnected to the nation's highway system and most are surrounded by marine waters and

undeveloped National Forest System land. The future of these communities is dependent on the ability to traverse and access National Forest lands.

Road development to exploration projects has the potential to improve the economic standing of Southeast Alaska communities. Mineral development within the Tongass National Forest is critical to Southeast Alaska's economy and for the domestic production of minerals. Coeur's Kensington mine is proof that mining activity within the Tongass is environmentally safe and has an extremely small and temporary footprint. Access to the mine continues to be a challenge to transport employees, equipment, and supplies via water transport. At the end of mine life, pursuant to numerous permits and financial assurances, the mine will be fully reclaimed after decades of providing high paying jobs, economic activity, and producing important domestic minerals. Roads, infrastructure and surface impacts will be reclaimed.

Minerals not otherwise withdrawn from public entry are available for discovery, exploration and development under the United States mining laws within the Tongass. Moreover, reasonable access to these minerals for discovery, exploration, and development is protected by U.S. mining laws. There are 52 areas totaling 589,000 acres within the Tongass containing identified mineral resources. Of the identified mineral tracts, 377,000 acres have high mineral potential. In addition, there are 6.6 million acres of potential, but undiscovered mineral resources within the National Forest.

Road access is needed to access claims and for exploration and mine development whether those claims are located within Tongass Inventoried Roadless Areas (IRAs) or non-IRA Tongass Forest land. It is argued that the 2001 Roadless Rule (36 C.F.R. [sect] 294.12(b)(3)) provides an exception to the prohibition on road construction in IRAs : "A road is needed pursuant to reserved or outstanding rights, or as provided for by statute or treaty." But there are simply no criteria by which the Responsible Forest Service official determines when a road is needed to support mining exploration and development. Furthermore, what is "reasonable access" is heavily influenced by the 2001 Roadless Rule with Forest Supervisors determining that helicopter access is sufficient for the development of mineral rights. Again, mining activities and associated road infrastructure are temporary in nature. When mining is completed the road will be reclaimed, the culverts would be pulled, and water bars installed. These areas can then be managed for "roadless characteristics," as has been done with many former logging roads which now provide meaningful habitat and conservation benefits. Roads are necessary for the development of important minerals held within the Tongass. Exemption from the 2001 Roadless Rule will insure that access decisions are made under existing environmental protections and pursuant to the United States mining laws.

An associated issue with mineral development is the ability to harvest trees in order to build necessary infrastructure to pursue and develop minerals within the Tongass. Management of the Tongass must allow the cutting and removal of trees associated with mining exploration and development. Currently, 36 C.F.R. [sect] 294.13(b)(2) only authorizes the cutting or removal of trees in IRAs that is "incidental to implementation of a management activity not otherwise prohibited by this subpart." The necessary level of exploration to develop a mine on the Tongass National Forest requires the cutting and removal of trees. Mine development would typically require even more cutting and removal of trees. Total exemption would eliminate this barrier to mining.

Exemption of the Tongass from the Roadless Rule also provides opportunities for development of and access to

other critical infrastructure for Southeast Alaska. Roads in the Transportation Utility System (TUS) corridors identified in the Southeast Alaska Transportation Plan (SATP) for development and/or essential for reservation for the connection of communities and development of the regional transportation system would be permitted. Additionally, exemption would assure access to new hydropower and other renewable energy projects and their transmission infrastructure, including their maintenance. The Proposed Rule would also allow road access to the Congressionally-authorized Southeastern Alaska Intertie System Plan Routes (PL 106-511, February 1, 2001) as identified in report #97-01 of the Southeast Conference. Roads included in a community, municipal, or tribal government plan to provide access and development of water resources, renewable energy resources, sanitary landfills, connecting isolated road networks, and subsistence resources, including maintenance of such roads and these facilities, would also be allowed. Lastly, road access to an authorized facility or location for fishery research, management, enhancement and rehabilitation activities; fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other permitted aquaculture facility or activities would be allowed under the total exemption from the Roadless Rule.

There are over 6.8 million acres of Congressionally-designated areas of the Tongass that already prohibit development. In addition, there are significant Tongass-specific stream protections built into the TTRA. The 2016 Tongass Transition RMP provides additional land and resource protection. Any development must meet the requirements of the Forest Plan and 36 C.F.R. Part 228 and any development would be examined by decision makers and the public through the NEPA process. The blanket proscriptions of the 2001 Roadless Rule do not provide protection - just barriers.

Coeur Mining fully supports the request of Alaska, the Congressional Delegation, businesses, communities and citizens to exempt the Tongass National Forest from the 2001 Roadless Rule. Underlying federal laws and management protections will insure that all uses of the Tongass lands will be completed under high standards of U.S. environmental laws with notice and input from the public. Reasonable access across and into the Tongass National Forest is vital to Southeast Alaska communities and the State to insure the economic future of Southeast Alaska and responsible use of the forest. We urge the Department to issue a final Rule that incorporates the comments of the coalition of Alaskans who support total exemption from the 2001 Roadless Rule.

[Position]