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Comments: Comment for the Draft EIS for the Alaska Roadless Rule

Hello,

We are submitting the attached comment to be considered for the Draft EIS for the Alaska Roadless Rule.

Thank you for taking the time to read and consider our comment.

Best,

Katrina and Kelly

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Katrina Pickering

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Comment on the Draft Environmental Impact Statement for the Alaska Roadless Areas

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I. Executive Summary

Pursuant to section 6(d) of the National Forest Management Act of 1976 (NFMA)¹ and section 1503.1(a)(4) of the Council on Environmental Quality (CEQ) rules,² we submit the following comment on the Draft Environmental Impact Statement (Draft EIS) for Alaska Roadless Areas. We request that our comment be considered by the United States Forest Service (USFS) as it develops land use plans pursuant to section 6 of NFMA and develops a final environmental impact statement (EIS) per the requirements of the National Environmental Policy Act (NEPA).

The act of public commenting addresses the democratic ideals of ensuring that a wide variety of opinions and concerns are included in the record and incorporated into final management decisions. Allowing comments for this Draft EIS for the Alaska Roadless Rule helps to ensure an excellent decision will be made for the future management plan for the Tongass National Forest. We submit the following public comment to provide information and discussion regarding the management alternatives in the Draft EIS directly impacting the Tongass National Forest.

A. Background of Commenters

We are graduate students at the University of Colorado - Boulder with the Masters of the Environment Program and are actively interested in public land policy and management, natural resource conservation, and cultural resource preservation. Katrina Pickering has a background in natural resources and visits national forests at

1 16 U.S.C. [sect] 1600 ("6(d) The Secretary shall provide for public participation in the development, review, and revision of land management plans").

2 40 C.F.R. [sect] 1503.1 ("(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:... (4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.").

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least three times a year, including a visit to the Tongass National Forest in 2015. She is an outdoor enthusiast, and enjoys hiking, backpacking, and climbing on public lands and educating others about nature. Following completion of her masters degree, Katrina aspires to work in natural resource management, especially creating resilient public lands to handle future uncertainty.³ Kelly Ann Bates has a background in film production and photography. She earned her Masters of Fine Arts degree in Film Production from the University of Southern California and is pursuing a career in merging her film skillsets with wildlife conservation awareness. Considering our passion and reliance on public lands academically, professionally, and personally, actions resulting from the Draft EIS will directly impact our future careers and livelihoods. It is our hope that the following comment reveals our passion and lifelong dedication to the management and celebration of public lands.

B. Purpose of this Comment

The following comment discusses the unique attributes of the Tongass National Forest and explains why Alternative 6 fails to protect these resources. The comment begins by discussing the differences between the proposed Alaska state-specific roadless rule and the state specific rules for Colorado and Idaho: This comment specifically brings up how the Colorado and Idaho rules establish more stringent forest regulations while the proposed Alaska rule would decrease regulations and conflict with the current forest management plan.

3 Pickering has held two professional and academic positions to create land planning documents: one with

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This comment will then proceed to discuss both the economic and environmental impacts. For the economic sector, we believe the USFS failed to fully consider the impact changing the Roadless Rule will have on major industries including tourism and fishing and adequately calculate the ecosystem services associated with carbon sequestration. Furthermore, economic opportunities are limited within the Tongass National Forest and the economic viability of expanding logging in the Tongass is likely to be unprofitable.

After discussing the economic issues, this comment progresses to a discussion of how the three Key Issues fail to explain why Alternative 6 is the best management strategy. Alternative 6 actively harms roadless values, hinders the local economies and communities, and disproportionately works to harm ecological resources. However, other alternatives better help balance the biological, social, and economic situations while creating a more resilient ecosystem. Furthermore, all three Key Issues are best met by Alternative 1, the no impact alternative.

Finally, the comment discusses how the United States Forest Service (USFS) failed to comply with the Endangered Species Act (ESA), specifically by failing to ask the United States Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) if there are any endangered or threatened species present in the Tongass National Forest. Historically, the Tongass National Forest does not contain any listed species;⁴ However, we argue that with proposed changes to the management of the forest, many species will need to be reevaluated to determine if detrimental impacts will occur. The Tongass National Forest needs to adopt and commit to an adaptive

4 United States Forest Service. (2019). Tongass National Forest. (https://www.fs.usda.gov/detail/r10/about-region/overview/?cid=fsbdev2_038671)

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management plan to meet its "unique biological, social, and economic situation" ⁵ and maintain this beautiful forest for future generations.

We conclude that Alternative 1 is the best alternative to meet the local economic and ecological needs of the Tongass National Forest. This management strategy best ensures future agency actions continue to support the ecological, social, and economic communities surrounding the Tongass.

C. The USFS should choose Alternative 1 because it, unlike the other proposed Alternatives, does not violate the ESA and best supports local economics and natural resources.

We persuade the USFS to make a decision that will help preserve and protect the Tongass National Forest for current and future generations. The Tongass National Forest is a unique, vast ecosystem, the likes of which are rapidly depleting across the world. Destroying environmental resources for economic gain, although necessary in some circumstances for human survival, is not the best use of the resources in the Tongass National Forest. We are deeply concerned that destroying native populations and habitats while obtaining minimal economic profits is

not the best use of these public lands. We hope this comment will help the USFS make excellent decisions to manage the Tongass National Forest and its unique natural resources. We request the USFS select Alternative 1 regarding the management of the Tongass National Forest for the following reasons:

- The Tongass Land Management Plan (TLMP) of 2016 should be updated prior to changing the roadless designation. Alternative 1 follows and honors the current

5 Draft EIS, Chapter 1, Purpose and Need at 1-4.

6

land and resource management plan and does not attempt to force a forest management change.

- The USFS failed to fully consider the adverse impacts the elimination of the Roadless Rule will have on local economies, existing industries, and ecosystem services including carbon sequestration. Alternative 1 best promotes these values as it would not allow for the destruction of livelihoods while profits remain static.
- The USFS needs to complete a cost benefit analysis to adequately analyze the ecological, social, and economic impacts of eliminating the Roadless Rule. Alternative 1 best protects the existing resources for current and future generations.
- The USFS did not adequately address why Alternative 6 is the preferred choice when addressing the three key issues. Alternative 1 best ensures that roadless values are upheld, economic opportunities remain viable, and natural resources are adequately protected, thus supporting all three Key Issues. The preservation of roadless areas is vital for the continued vitality of the Tongass National Forest, and the final EIS should not endorse the eliminating of the Roadless Rule.
- The USFS violated section 7 of the Endangered Species Act (ESA) by not asking the United States Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) if any threatened or endangered species are present in the Tongass National Forest. Alternative 1 protects all sensitive species and does not trigger the activation of the ESA.

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Overall, we support the adoption of Alternative 1 as it best protects ecological and cultural resources and ensures that economic resources are not wasted on areas with minimal profit opportunities. If Alternative 2-6 are selected, roadless values will not be achieved for the Tongass National Forest and, especially considering changing climatic conditions, will create a less resilient and more at-risk ecosystem.

II. Creating a state-specific roadless rule that loosens regulations and conflicts with the current forest management plan has no precedent. A. Why is the Tongass Important?

At 17 million acres⁶, the Tongass National Forest is one of the largest remaining and intact temperate rainforests in the world⁷ and is inhabited by a diverse array of fish, mammals, birds, plants, and other organisms.⁸ The Tongass is also home to a variety of Native Tribes, including the Tlingit and Haida tribes, who have inhabited

the region for thousands of years.⁹ These unique ecological and cultural resources make the Tongass National Forest one of the few remaining wild places in the world. If we want to ensure the ecosystem and culture continue to thrive despite changing climatic conditions, we will need to protect the Tongass from unnecessary and uneconomical uses.

6 Prince William Network. (2019). Tongass National Forest. Retrieved from https://rainforests.pwnet.org/americas_rainforests/tongass.php

7 United States Forest Service. (2019). About the Forest. Retrieved from <https://www.fs.usda.gov/main/tongass/about-forest>

8 Alaska Wild. (2019). Animals of the Tongass National Forest. Retrieved from <http://www.alaskawild.org/wp-content/uploads/2014/10/Animals-of-the-Tongass-FINAL.pdf>

9 Central Council of the Tlingit and Haida Indian Tribes of Alaska. (2019). Our History. Retrieved from <http://www.ccthita.org/about/history/>

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B. The Tongass Land Management Plan (TLMP) of 2016 should be changed prior to considering a change in roadless designation.

The 2001 Roadless Rule "establishes prohibitions on road construction, road reconstruction, and timber harvesting... of inventoried roadless areas on National Forest System lands...in the context of multiple-use management."¹⁰ This rule was established "to protect the social and ecological values and characteristics of inventoried roadless areas,"¹¹ and since inception states such as Colorado and Idaho have established state-specific rules to better help manage their forest resources. Idaho was the first state to establish a state-specific rule in 2008 which "designates 250 Idaho Roadless Areas (IRAs) and establishes five management themes that provide prohibitions with exceptions or conditioned permission governing road construction, timber cutting, and discretionary mineral development."¹² The main premise of the Idaho Roadless Rule was to expand protections from the 2001 Roadless Rule to better protect the natural resources of the state. Colorado followed suit in 2011 to create a state-specific Roadless Rule which also "provides a management direction to conserve roadless values across 4.2 million acres of National Forest System lands within the state."¹³

Alaska has been fighting for a state-specific roadless rule which exempts the Tongass National Forest from roadless designation since the establishment of the 2001

10 United States Department of Agriculture. (2019). Retrieved from [fs.usda.gov/roadmain/roadless/2001rule](https://www.fs.usda.gov/roadmain/roadless/2001rule)

11 United States Department of Agriculture. (16 April 2019).

12 Special Areas; Roadless Area Conservation; Applicability to the National Forests in Idaho, 73 Federal Register 201 (16 October 2008)) (to be codified at 36 CFR pt. 294).

13 United States Department of Agriculture. (2019). Colorado Roadless Rule. Retrieved from <https://www.fs.usda.gov/roadmain/roadless/coloradoroadlessrules>

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Roadless Rule. Recently Alaska Governor Mike Dunleavy and Alaska's congressional delegation asked President Trump to restore the exemption for the Tongass National Forest from the Roadless Rule.¹⁴ However, the Draft EIS preferred alternative proposes to remove all roadless designations within the Tongass National Forest. Unlike the other state-specific rules, the Draft EIS's preferred alternative proposes to eliminate roadless designations. Changing the regulations for the state-specific rules to decrease regulations lacks precedent as the other two state-specific roadless rules increase protections to conserve roadless values. Furthermore, Alternative 6 in the Draft EIS is in direct conflict with the existing land management plan for the Tongass National Forest and attempts to bypasses creating an updated forest management plan.¹⁵ By not changing the existing TLMP plan prior to changing the roadless designation, a plan change is forced to occur. The forest management plan should be updated prior to considering a roadless designation.

III. The USFS failed to fully consider the extent of the economic impacts for changing the protections under the 2001 Roadless Rule

The Tongass National Forest contains unique ecological and cultural attributes which offer a variety of economic opportunities. However, harming the ecological and cultural resources of the region is likely to have major adverse impacts to both profitability and longevity of pursuits. The section below discusses how changing the

14 Murkowdki, F. H. (4 September 2019). A logging exemption makes sense in Alaska. The Washington Post. Retrieved from https://www.washingtonpost.com/opinions/a-logging-exemption-makes-sense-in-alaska/2019/09/04/44254756-ce62-11e9-a620-0a91656d7db6_story.html

15 United States Department of Agriculture. (2019). Tongass National Forest - Land and Resource Management Plan Amendment. Retrieved from

<https://www.fs.usda.gov/detail/tongass/landmanagement/?cid=stelprd3801708>

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Roadless Rule designation will harm existing industries both economically and ecologically.

A. Logging the Tongass National Forest would be arbitrary and capricious since it fails to consider the negative impact on the major industries located in the Tongass, primarily fishing and tourism.

The Draft EIS fails to address how the Tongass as a whole ecosystem will be analyzed for any cumulative effects associated with the proposed Roadless Rule exemption. The Draft EIS does not specifically call for any projects that directly change the Tongass National Forest. Exemptions to the Roadless Rule are associated with access for logging the now inaccessible areas of the Tongass National Forest, including old growth forests.

The Draft EIS calls for the Tongass to be exempted from the 2001 Roadless Rule. The document states several times that proper studies will be completed on a case by case basis as the projects arise. Therefore when future roads are built, an EIS and other appropriate documents will be produced at a point in the future for that project.

Roughly 40% of wild salmon that swim along the West Coast spawn in the Tongass, generating a fishery that the USFS estimates is worth \$986 million a year.¹⁶ Much of the past logging activity required roads that crisscrossed the spawning streams. In many of these cases, the silt from runoff clogs the streams and prevents

16 Eilperin, J. (October 15, 2019). Trump administration proposes expanding logging in Alaska's Tongass National Forest, The Washington Post

Retrieved from https://www.washingtonpost.com/climate-environment/trump-administration-proposes-expanding-logging-in-alaskas-tongass-national-forest/2019/10/15/92e47db8-ef77-11e9-8693-f487e46784aa_story.html

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salmon from spawning.¹⁷ The USFS failed to adequately study the adverse impacts changing the Roadless Rule will have on salmon spawning and the associated logging of old forest growth. By failing to study these impacts, the Roadless Rule exemption is arbitrary and capricious because the USFS "offer[s] an explanation for its decision that runs counter to the evidence before the agency."¹⁸

The Draft EIS states that "[t]he application of Forest-wide standards and guidelines and Best Management Practices developed to meet soil protection, water quality standards, and fish habitat protection will help protect [essential fish habitat (EFH)] on the Tongass and adjacent estuarine and marine waters. Adoption of any of the alternatives would not specifically result in any actions that could affect EFH."¹⁹ However, any road-building constructed in the Tongass will change water from the runoff with a probable detrimental effect to the spawning streams which could be a significant economic negative; therefore, an EIS is required on this subject. Without analyzing the key question of how the fishing industry will be impacted, the Tongas should not be exempted from the Roadless Rule. Furthermore, an EIS is needed to determine the full impact new logging roads will have on the spawning of salmon.

In the section Salmon Harvesting and Processing of the Draft EIS it is stated: "None of the alternatives are expected to have a significant change to the commercial fishing or fish processing industries. Riparian Management standards and guidelines established in the 2016 Tongass Land Management Plan (TLMP) would remain in place

17 Hunt, C. (September 18 2019). At home on the Tongass. Retrieved from <https://www.tu.org/blog/>

18 Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

19 Draft Environmental Impact Statement Rulemaking for Alaska Roadless Areas, United States Department of Agriculture, (October, 2019), Retrieved at https://www.fs.usda.gov/nfs/11558/www/nepa/109834_FSPLT3_4876629.pdf

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under all of the alternatives. While there would be some variation in the level of protection, these variations are not expected to affect the fishing industry. The future of the fishing industry in Southeast Alaska depends upon occurrences outside of the Tongass National Forest such as hatchery production, offshore harvest levels, and changes in ocean conditions."²⁰

The Draft EIS failed to fully consider the impact of Alternative 6 on the salmon fishery, especially considering that the health of the salmon fishery may have adverse impacts outside the Tongass National Forest. Therefore, this

logic is "rely[ing] on factors which Congress had not intended it to consider," thus this argument is arbitrary and capricious.²¹

B. The Draft EIS fails to consider the value of the Tongass National Forest as a carbon sink, which is a significant component in mitigating climate warming.

Southeast Alaska is one of the most dynamic environments relative to the carbon cycle, with nearly nine times the amount of carbon dissolving in its streams as in the Amazon River basin per unit area.²² This is a substantial amount of earth's sequestered carbon. Concrete financial values cannot be placed on the Tongass; therefore financial comparisons are not feasible. In terms of mitigating the climate change problems, the Tongass is priceless. Old growth forests are more effective carbon sinks than tropical rainforests. The Tongass holds approximately 8% of the lower 48's sequestered

20 Draft Environmental Impact Statement Rulemaking for Alaska Roadless Areas, United States Department of Agriculture, (October, 2019), pp E-13, Retrieved at https://www.fs.usda.gov/nfs/11558/www/nepa/109834_FSPLT3_4876629.pdf

21 Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

22 Addressing Climate Change on the Tongass (June 2010). US Department of Agriculture Forest Services. p2, Retrieved from https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5252603.pdf

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carbon.²³ The carbon sequestered by the Tongass National Forest is a significant component of total atmospheric and biospheric carbon. The vast majority of scientists say we are rapidly approaching a cliff after which we will not be able to halt and reverse the effects of global warming. Increased carbon dioxide and other greenhouse gasses will reach a tipping point where the effect can no longer be reversed.²⁴

The USFS needs to seriously analyze the impact of further logging in the Tongass National Forest on climate change in the Draft EIS. Alternative 2-6 may augment atmospheric carbon and sequestered carbon lower. The USFS "entirely failed to consider an important aspect of the problem," indicating an arbitrary and capricious decision.²⁵ Only Alternative 1, the no impact alternative, is justifiable.

C. The USFS failed to complete a clear cost benefit for exempting the Tongass from the 2001 Roadless Rule. This exemption will not bring a significant amount of new jobs; however, it will harm existing industries such as hunting, tourism, and fishing businesses which are currently providing significant economic activity for the area.

The Tongass National Forest has minimal profitability for logging and the negative impacts of logging are far greater than the economic profits. SOUTHEAST ALASKA by the Numbers states "Timber available for sale is often uneconomic, thereby constraining supply to mills; and the poor outlook for future economic timber is a

23 Shankman S. (2019, October 16) Trump Wants to Erase Protections in Alaska's Tongass National Forest, a Storehouse of Carbon Retrieved from <https://insideclimatenews.org/news/16102019/tongass-national-forest-trump-roadless-rule-logging-climate-change>

24 Regan, H. (2019, November 28). Climate crisis pushing Earth to a 'global tipping point,' researchers say, CNN

Health Retrieved from <https://www.cnn.com/2019/11/28/health/climate-crisis-global-tipping-point-intl-hnk/index.html>

25 Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)

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disincentive for continued participation in the Southeast timber industry".²⁶ The Draft EIS is focused on getting timber to markets. The Draft EIS even states that the "proposed rule is focused on the exemptions of the prohibitions for timber harvest and road construction/reconstruction within designated roadless areas on the Tongass."²⁷

To expand logging in the Tongass is, at best, a dubious business venture, which at the same time risks the health of the local tourism and fishing economy and the stability of the Earth's biosphere. By failing to consider these risks, the USFS "entirely failed to consider an important aspect of the problem;"²⁸ therefore expanding logging in the Tongass forest would be arbitrary and capricious. Not only does the evidence suggest that USFS resources are used in the wrong areas to support the Tongass, it also ignores the need for the Tongass to be kept as a fully functional rainforest to mitigate the carbon dioxide levels in the atmosphere that most scientists say is hurtling humankind toward an existential climate crisis.²⁹

The Draft EIS is not a complete evaluation of changes in value due to segmenting the Tongass National Forest ecology. Nor does it represent a thorough cost benefit result of any of the six alternatives. For each Alternative the USFS notes that this Draft EIS is not proposing any immediate action such as the building of a road or the harvesting of timber. In each of these cases, the Draft EIS states that an analysis

26 Southeast Timber Industry, (September 2017) (pp8) Retrieved at

<http://www.seconference.org/sites/default/files/Southeast%20Alaska%20by%20the%20numbers%202017%20FINAL.pdf>

27 Draft Environmental Impact Statement Rulemaking for Alaska Roadless Areas, United States Department of Agriculture, pp 46, (October, 2010), retrieved at https://www.fs.usda.gov/nfs/11558/www/nepa/109834_FSPLT3_4876629.pdf

28 Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)

29 Regan, H. (2019, November 28). Climate crisis pushing Earth to a 'global tipping point,' researchers say, CNN Health Retrieved from <https://www.cnn.com/2019/11/28/health/climate-crisis-global-tipping-point-intl-hnk/index.html>

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will be done in the future at the time the action is being proposed.³⁰ As such, the Draft EIS does not take into account what happens in a final state.³¹ If newly allowed road building and timber harvesting takes place at a maximum rate, the Tongass National Forest, a majority uninterrupted ecological entity, would be broken up into

smaller ecological territories with possibly profound implications. In the words of the Draft EIS; "It is reasonable and efficient to limit detailed site-specific impact analyses to when specific proposals are brought before the agency."³²

The Draft EIS needs to do a Cost Benefit Analysis (CBA). While the USFS failed to complete a CBA, the Office of Management and Budget (OMB) successfully completed a CBA which concluded that no new timber jobs will be created and that the "lost revenue to the Guide / Outfitter / Recreation and Tourism sectors will be in excess of \$310,000 per year."³³ The USFS should use OMB's CBA in its analysis of the Tongass National Forest.

The Draft EIS fails to do a thorough review of the effects of other uses of the Tongass. To disregard these other multiple uses is arbitrary and capricious because it fails "to consider an important aspect of the problem."³⁴ The Draft EIS does not ensure the impact multiple uses has on the Tongass National Forest; it sets in motion a removal of the Tongass from Federal oversight based on change of authority over the Tongass National Forest. At the end of this process, an impediment will be reduced for

30 Draft Environmental Impact Statement Rulemaking for Alaska Roadless Areas, United States

Department of Agriculture,p1-2 (October, 2010), Retrieved from

https://www.fs.usda.gov/nfs/11558/www/nepa/109834_FSPLT3_4876629.pdf

31Id.

32 Id.

33Call to Action, Flywater Travel Call to Action - Roadless Rule - Tongass National Forest, AK, (October 2019), Retrieved from <https://www.flywatertravel.com/blog/2019/10/30/call-to-action-roadless-rule-tongass-national-forest-ak/>

34 MotorVehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.,463 U.S. 29, 43 (1983)

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dividing the Tongass into smaller sections without taking into effect the ecological and financial cost to the existing Tongass National Forest in its entirety. The Draft EIS does not consider the inevitable changes to the surrounding environment that the proposed roads will inevitably cause.

Costs and benefits have not been portrayed in this Draft EIS, making this subject impossible to discuss thoroughly. In a 2014 study, support for timber sales and harvests comprised at least 34% of the annual budget for the Tongass National Forest between fiscal years 2009 and 2013.³⁵ This disproportionate amount of the USFS budget applied to timber shows a distorted view of their responsibilities. The timber-centric approach neglects the opportunities that the Tongass creates for other industries, namely commercial fisheries, hunting and tourism. A much larger percentage of the USFS resources are dedicated to logging than to other services, in spite of the fact that logging activities were a much smaller percentage of USFS revenue than the other services provided.³⁶

IV. The preferred rule (Alternative 6) and Alternatives 2-5 in the Draft EIS will harm ecological resources within

the Tongass National Forest.

The Tongass National Forest is the largest intact temperate rainforest in the world and the largest national forest within the United States. This expansive forest nurtures diverse habitats including streams, mountains, old-growth forests, and deep

35 Richards R (October 3, 2018) Fraud in the Tongass, Center for American Progress Retrieved from <https://www.americanprogress.org/issues/green/reports/2018/10/03/458961/fraud-in-the-tongass/>

36 Richards, R., Fraud in the Tongass, (October 3, 2018), Center for American Progress, Found at <https://www.americanprogress.org/issues/green/reports/2018/10/03/458961/fraud-in-the-tongass/>

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fjords.³⁷ Despite the presence of so many known species, recent biological studies have found species previously unknown to inhabit the Tongass National Forest.³⁸ These discoveries of increased range reveal more undiscovered species or critical habitat within the Tongass exist. By preventing continued development within the Tongass, populations of currently unknown species could be preserved for future scientific discovery and enjoyment of future generations.

The purpose of this comment is not to stifle the economic opportunities in the region, but rather to limit the human impacts on this unique ecosystem. Logging under Alternatives 2-6 degrades the natural ecosystem and destroys old-growth forests that will take centuries to regrow and even longer for some ecosystem services³⁹ to fully recover.⁴⁰ Without these ecosystem services, the ecological uniqueness and splendor of the Tongass will be unnecessarily damaged and disrupted.

In this section, we will address the three Key Issues, the unique ecological species the ESA intends to protect, the USFS's violation of section 7 of the ESA,⁴¹ and an analysis why Alternatives 2-6 are unsuitable for continuing to protect these ecological resources.

37 United States Forest Service. (2019). About the Forest. Retrieved from <https://www.fs.usda.gov/main/tongass/about-forest>

38 Smith, W. P., Stotts, M. J., Andres, B. A., Melton, J. M., Garibaldi, A., & Boggs, K. (2001). Bird, mammal, and vegetation community surveys of research natural areas in the Tongass National Forest. Res. Pap. PNW-RP-535. Portland, OR: US Department of Agriculture, Forest Service, Pacific Northwest Research Station. 44 p, 535.

39 Ecosystem services: benefits that humans and animals freely gain from the environment. These services help ensure the continued survival for many organisms and that an ecosystem is functioning well.

40 Save the Redwoods League. (2018 December 4). How long it takes for a forest to recover after clear-cutting. Retrieved from <https://www.savetheredwoods.org/grant/how-long-it-takes-for-a-forest-to-recover-after-clear-cutting/>

41 16 U.S.C 1531 [sect]7

A. The discussion of the three Key Issues in the Draft EIS fails to explain the rationale for selecting Alternative 6, and the choosing of Alternative 6 is arbitrary and capricious because the offered explanation runs counter to the evidence before the agency.

The Draft EIS for the Alaska Roadless Rule describes three Key Issues: "Roadless area conservation,"⁴² "Supporting local and regional socioeconomic well-being, Alaska Native culture, rural subsistence activities, and economic opportunity across multiple economic sectors,"⁴³ and "Conserve terrestrial habitat, aquatic habitat, and biological diversity."⁴⁴ Alternative 1 will provide the most robust protection of these resources while Alternative 6 will remove protections.

Alternative 6 allows the greatest quantity of road development within the Tongass National Forest by exempting the state of Alaska from the 2001 Roadless Rule. This alternative has the least restrictions on wildlife habitat by permitting road-building and logging in a greater physical extent of the Tongass National Forest.⁴⁵ Key Issue 1 strives to protect "unfragmented wildlife habitats, undeveloped or natural areas and opportunities for primitive recreation and/or solitude."⁴⁶ While Alternative 1 ensures that the "existing management direction would provide the highest degree of protection,"⁴⁷ Alternative 6 "remov[es] all acres from regulatory roadless designation."⁴⁸ The connection between why Alternative 6 was chosen and the blatant disregard of the

⁴² Draft EIS at 2-18.

⁴³ Draft EIS at 2-20.

⁴⁴ Draft EIS at 2-23.

⁴⁵ Id.

⁴⁶ Draft EIS at 1-5.

⁴⁷ Draft EIS at 2-19.

⁴⁸ Id.

resources it destroys is not clear. Alternative 6 clearly would fragment wildlife habitats with increased logging and road-building, more developed natural areas, and reduced opportunities for solitude and primitive recreation, directly conflicting with the issues Key Issue 1 attempts to mitigate. As the Supreme Court held in *Motor Vehicles Manufacturers Association v. State Farm*, "an agency would be arbitrary and capricious if the agency...offered an explanation for its decision that runs counter to the evidence before the agency."⁴⁹ The preservation of roadless areas is vital for the continued vitality of the Tongass National Forest, the final EIS should not endorse the eliminating of the Roadless Rule.

Key Issue 2 aims to "suppor[t the] local and regional economy, promot[e] economic diversification, and ...enhanc[e the] rural community well-being."⁵⁰ Although none of the alternatives "would result in changes to the [quantity of]... timber,"⁵¹ Alternatives 2-6 increase the amount of "suitable land" open to timber harvesting.

However, Alternatives 4 through 6 are located "further from existing infrastructure and thus less likely to be economic to harvest."⁵² In a region where timber harvesting has minimal economic viability, obstacles such as increased distance from existing roadways will only augment the price of timber harvesting and other extraction industries.⁵³ The change in Roadless Rule designation under Alternatives 2-6 will not significantly enhance economic opportunities and will disproportionately impact the

49 Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

50 Draft EIS at 1-6.

51 Draft EIS at 2-20.

52 Draft EIS at 2-21.

53 Southeast Timber Industry, (September 2017) (pp8) Retrieved at

<http://www.seconference.org/sites/default/files/Southeast%20Alaska%20by%20the%20numbers%202017%20FINAL.pdf>

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natural resources that support many of the local, rural communities. Choosing Alternatives 2-6 to help support the local economy "runs counter to the evidence before the agency"⁵⁴ and thus is arbitrary and capricious.

Key Issue 3 aims to conserve "large, undeveloped, and natural land areas... [that are] not available elsewhere in the [National Forest System] outside of Alaska."⁵⁵ By recommending Alternative 6, logging within the Tongass opens more forested areas to habitat disturbance directly "alter[ing the] general wildlife habitat."⁵⁶ Alternative 6 is thus in direct conflict with the goal of Key Issue 3 and "offer[s] an explanation... that runs counter to the evidence before the agency,"⁵⁷ resulting in an arbitrary and capricious argument. Furthermore, selecting Alternatives 2- 6 will impact habitats differently. A summary of how specific habitats are impacted by these Alternatives are below:

a. Old-Growth Habitat

The Draft EIS argues that "[a]ll of the alternatives would have old-growth harvest levels similar to the level authorized by the 2016 Forest Plan."⁵⁸ Although harvest levels may remain the same, the disturbed areas will drastically increase, causing more widespread harm. The areas opened to timber harvesting will increase from 230,000 acres in Alternative 1 to 247,000 acres for alternative 2 (7% increase); 305,000 acres for alternative 3 (33% increase); 388,000 acres for alternative 4 (69% increase); and to 395,000 acres for alternatives 5 and 6 (72% increase).^{59,60} Since alternatives 2-6 are all

54 Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

55 Draft EIS at 1-7.

56 Draft EIS at 1-9.

57 Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

58 Id.

59 Draft EIS at ES-10.

60 All calculations completed by Pickering using the following formula to obtain percent difference: (Alternative X acreage - Alternative 1 acreage)/ Alternative 1 acreage.

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above the 5% threshold, the indicator for statistical significance, there will be greater impacts for the increased areas allowing harvest and the resulting ecological disturbance.⁶¹

1. Young Growth in Special Habitats

The Forest Plan allows timber harvest in "a number of special habitats...including Riparian Management Areas, Beach and Estuary Fringe, and Old-growth Habitat LUD."⁶² Research has shown that logging near some of these special habitats such as riparian buffers and near bodies of water has adverse impacts on ecosystems. Since the presence or absence of certain aquatic invertebrates indicate healthy or poor water quality, regions where logging occurred near riparian buffers and aquatic ecosystems resulted in the absence of many sensitive invertebrate species, lower species diversity, and lower species abundance, thus indicating poor water quality. Aquatic insects including Ephemeroptera (common name mayfly), Plecoptera (common name stonefly), and Trichoptera (common name caddisfly) are especially at risk for lower populations. Without a buffer between logging activities and these sensitive areas, these invertebrate populations will suffer.⁶³

1. Road Density

Roads are expected to increase under alternatives 3-6 "to add more remote

suitable timber area."⁶⁴ The construction of new roads causes habitat fragmentation and

61 Sauro, J. (21 October 2014). What Does Statistically Significant Mean?. Measuring U. Retrieved from <https://measuringu.com/statistically-significant/>

62 Draft EIS at 2-23.

63 Quinn, J. M., Boothroyd, I. K., & Smith, B. J. (2004). Riparian buffers mitigate effects of pine plantation logging on New Zealand streams: 2. Invertebrate communities. *Forest Ecology and Management*, 191(1[shy]3), 129-146.

64 Draft EIS at 2-24.

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erosion. The increase of road networks can also lead to biological invasions, air pollution, increased hunting pressure, illegal poaching, and forest conversion. These direct and indirect impacts can severely impact wildlife and influence the type and extent organisms can travel and proliferate within their habitats.⁶⁵ Alternatives 1 and 2 limit this amount of disturbance, and therefore promote biological diversity and ecological habitats.

1. Fish Habitat and Species-Specific Effects

Although Alternative 3 provides additional restrictions to special habitats, including riparian management areas⁶⁶, the remaining Alternatives 2 and 4-6 put fish and other organisms at risk of decreased populations.⁶⁷ Precaution and monitoring must be taken to ensure that these existing populations are protected. Restricting roads

within the Tongass will allow these populations to more easily thrive.

1. LUD II areas

The 2016 Forest Plan was written under the pretense that the 2001 Roadless Rule was in place and has a goal to "[m]anage [LUD II] areas in a roadless state to retain their wildland character."⁶⁸ Alternatives 3 and 6 eliminate this distinction, opening up these sensitive areas and habitats to hazardous disturbances directly conflicts with the Tongass Land Management Plan (TLMP) of 2016.⁶⁹ The USFS should amend the TLMP prior to changing the Roadless Rule designation.

⁶⁵ Kleinschroth, F., & Healey, J. R. (2017). Impacts of logging roads on tropical forests. *Biotropica*, 49(5), 620-635.

⁶⁶ Draft EIS at 2-24.

⁶⁷ Kleinschroth, F., & Healey, J. R. (2017). Impacts of logging roads on tropical forests. *Biotropica*, 49(5), 620-635.

⁶⁸ United States Department of Agriculture. (December 2016). Land and Resource Management Plan: Tongass National Forest. Federal Register, pp. 3-70. Retrieved from https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd527907.pdf

⁶⁹ Draft EIS at ES-10.

Alternatives 3 and 6 completely eliminate the LUD II land use designation, directly while alternatives 2, 4, and 5 significantly reduce these wild areas. Although the quantity remains the same, the greater impact on the entire forest will expand due to allowing greater road development in Alternatives 2-6.

The Draft EIS reveals evidence that Alternatives 2-6 will cause adverse impacts for all three Key Issues. Alternatively, Alternative 1, the no impact alternative, ensures that roadless values are upheld, economic opportunities remain viable, and natural resources are adequately protected, thus supported all three Key Issues. Alternatives 2[shy]5 and especially 6 are arbitrary and capricious because they offer an explanation that "runs counter to the evidence before the agency,"⁷⁰ as the Supreme Court held in *Motor Vehicles Manufacturers*

Association v. State Farm.⁷¹ The preservation of roadless areas is vital for the continued vitality of the Tongass National Forest, and the final EIS should not endorse the eliminating of the Roadless Rule.

B. The USFS violated section 7 in the Endangered Species Act (ESA) for the

Draft EIS by failing to ask the United States Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) if threatened and endangered species were present.

The Endangered Species Act (ESA) was established to help conserve

threatened and endangered species and their habitats throughout the United States.⁷² Under the Endangered Species Act (ESA), the United States Forest Service

⁷⁰ Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

⁷¹ Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

⁷² 16 U.S.C. [sect]1531. (2)(b): "The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species..."

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(USFS) "shall...insure that any action authorized, funded, or carried out by such agency...is not likely to jeopardize the continued existence of any endangered species or threatened species..."⁷³ The first step of this process, is to ask the United States Fish and Wildlife Service (FWS) if there are any endangered species or threatened species present. However, a close review of the Federal Register reveals the USFS never asked if any endangered species or threatened species were present in the Tongass National Forest, thus not complying with the ESA.⁷⁴

The Tongass National Forest is a unique ecosystem, as the forest is the largest intact national forest within the United States. Disruptions to this fragile ecosystem can cause severe adverse impacts. For example, recent studies have shown that increasing road networks within forests have major impacts on forest resilience. Opening up and expanding road networks can lead to habitat fragmentation, severe erosion, biological invasions, air pollution, increased hunting pressure, illegal poaching, and forest conversion. These direct and indirect impacts can severely impact wildlife and influence the type and extent organisms can travel and proliferate within their habitats.⁷⁵ Furthermore, we lack information regarding the expansiveness of existing species within the Tongass. Recent biological studies have found species previously unknown to inhabit the Tongass National Forest.⁷⁶ By disrupting this ecosystem, we may lose species that offer scientific and human health benefits.

⁷³ 16 U.S.C 1531 [sect]7(a)2

⁷⁴ National Archives. (21 November 2019). Federal Register. Retrieved from <https://www.federalregister.gov/agencies/forest-service>

⁷⁵ Kleinschroth, F., & Healey, J. R. (2017). Impacts of logging roads on tropical forests. *Biotropica*, 49(5), 620-635.

⁷⁶ Smith, W. P., Stotts, M. J., Andres, B. A., Melton, J. M., Garibaldi, A., & Boggs, K. (2001). Bird, mammal,

and vegetation community surveys of research natural areas in the Tongass National Forest. Res. Pap. PNW-RP-535. Portland, OR: US Department of Agriculture, Forest Service, Pacific Northwest Research Station. 44 p, 535.

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The Draft EIS claims no threatened or endangered species live within the Tongass.⁷⁷ However, since the USFS never asked the FWS, this claim is invalid, and moving forward, the USFS needs to comply with ESA protocols.

A variety of concerns exist for the potential changes for the Tongass National Forest under Alternatives 2-6, which permit increased road development.⁷⁸ Additionally, the impacts of deforestation from logging within the Tongass National Forest were not considered to the fullest extent. Species that are not attuned to development and disturbances may lose critical habitat, hampering their survival, and thus increasing their potential to become endangered or threatened.

Logging and development as proposed under Alternative 6 within the Tongass will impact a variety of sensitive species, including the Queen Elizabeth Goshawk, which may become ripe for listing.⁷⁹ The Queen Charlotte Goshawk was identified as a sensitive species in 2001 but was never listed under the ESA partly because of "the commitment by the USDA Forest Service to address the issue in the [Tongass Land Management Plan (TLMP)] process." The Draft EIS conflicts with the TLMP in many circumstances, especially with how to handle LUD II areas, which are prime Queen Charlotte Goshawk habitat. The TLMP states that LUD II areas are "[m]anage[d]...in a roadless state to retain their wildland character."⁸⁰ Alternatives 3 and 6 eliminate this distinction, opening up these pristine and sensitive areas and habitats to hazardous

⁷⁷ United States Forest Service. (2019). Tongass National Forest. (https://www.fs.usda.gov/detail/r10/about-region/overview/?cid=fsbdev2_038671)

⁷⁸ Draft EIS at ES-10.

⁷⁹ Draft EIS at 3-71 to 3-83

⁸⁰ United States Department of Agriculture. (December 2016). Land and Resource Management Plan: Tongass National Forest. Federal Register, pp. 3-70. Retrieved from https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd527907.pdf

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disturbances.⁸¹ Additionally, prior research indicates goshawk habitat is adversely affected by logging activity in southeast Alaska.⁸² With more disturbances allowed on the habitat of sensitive animals, the Queen Charlotte Goshawk and its critical habitat will be at increased risk of adverse impacts and listing as an endangered or threatened species.

Furthermore, the Draft EIS indicates the "Queen Charlotte goshawk (*Accipiter gentiles laingi*) is a wide-ranging species that seems to prefer mature and old-growth forest habitats for nesting and foraging. This species would be affected ...higher for Alternatives 4,5, and 6 because of longer road developments and associated

fragmentation."⁸³ Despite knowing the Queen Charlotte goshawk populations will be adversely impacted by Alternatives 4, 5, and 6, the USFS both determined that Alternative 6 is the best plan of action and that the Queen Charlotte goshawk has a "very high" likelihood to maintain viable populations within 100 years. This determination is in direct conflict with the understanding that the population will be severely impacted by further development under Alternatives 4, 5, and 684, and this decision is arbitrary and capricious as the "explanation for its decision ...runs counter to the evidence before the agency."⁸⁵

81 Draft EIS at ES-10.

82 Swanston, D. N., Shaw, C. G., Smith, W. P., Julin, K. R., Cellier, G. A., & Everest, F. H. (1996). Scientific information and the Tongass land management plan: key findings derived from the scientific literature, species assessments, resource analyses, workshops, and risk assessment panels. Gen. Tech. Rep. PNW-GTR-386. Portland, OR: US Department of Agriculture, Forest Service, Pacific Northwest Research Station. 30 p.(Shaw, Charles G., III, tech. coord.; Conservation and resource assessments for the Tongass land management plan revision), 386.

83 Draft EIS at 3-9.

84 5 U.S.C. [sect] 706.

85 Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

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Despite knowing that adverse impacts will cause significant disruptions to species including the Queen Charlotte goshawk, the USFS failed to comply with ESA requirements. Since the USFS failed to ask the FWS if threatened species or endangered species exist within the Tongass National Forest, a biological evaluation was not performed. The USFS needs to first ask for a list of species to know what to evaluate and then conduct a biological evaluation for species that should be listed under the ESA for species such as the Queen Elizabeth Goshawk and the subsequent consultation with the FWS for any potential listed species that may be adversely affected.⁸⁶

Finally, many of the species listed in the draft EIS are marine species which will be impacted by the change in land use on the bordering lands. However, the Draft EIS fails to comply with the ESA for marine species since the National Marine Fisheries Service (NMFS) was not asked if there are endangered or threatened species present. By disregarding the impacts logging, road-building, and other disturbances have on marine organisms and ecosystems, the Draft EIS's argument is arbitrary and capricious under as the USFS "entirely failed to consider an important aspect of the problem."⁸⁷

C. The USFS should accept Alternative 1 because it does not violate the ESA and best protects the existing natural resources within the Tongass National Forest.

Due to constantly changing conditions, environments are best managed through adaptive management to account for future uncertain conditions. Under the Council of Environmental Quality (CEQ) rules [sect]1505.2(c), "all practicable means [must be taken] to

86 16 U.S.C 1531 [sect]7(a)2

87 Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

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avoid or minimize environmental harm from the alternative selected... and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation."⁸⁸

Whatever the USFS decides, it should establish and commit to an extensive monitoring plan to ensure future adverse impacts to the environment are mitigated. Nonetheless, we recommend the adoption of Alternative 1, which retains the 2001 Roadless Rule, and provides the best protection for ecological resources while producing positive profits. By establishing an adaptive management plan, the Tongass National Forest will constantly improve management and correct for mistakes to support the local economic, social, cultural, and ecological communities. If the USFS is serious about adaptive management, then a robust monitoring program that covers all resources is in order. Furthermore, the USFS needs to commit to adhering to the listed established adaptive management plan. Further requests include:

1. Monitoring of existing conditions within the Tongass National Forest including

exact locations of all roaded areas, present species, poaching areas, logging areas, sensitive areas, critical habitat for sensitive species, riparian and aquatic areas, and Tribal sacred lands. Knowing the specifics on where disturbances are located can help the USFS best manage their national forest.

1. Reinventory the Tongass National Forest to determine the location of all roaded areas within the Tongass and restore these areas to natural conditions, if possible.

88 Council on Environmental Quality Regulation - [sect]505.2(a) Record of decision in cases requiring environmental impact statements.

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1. The USFS also needs to establish specific metrics and measurement of success for the adaptive management of the Tongass National Forest.

2. The USFS needs to commit to adaptive management and monitoring per CEQ rule 1505.3(c).⁸⁹ Failure to commit to this type of management strategy will be viewed as arbitrary and capricious for at least one of four claims as the Supreme Court held in Motor Vehicles Manufacturers Association v. State Farm: "the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."⁹⁰

V. Conclusion

We persuade the USFS to make a decision that will help preserve and protect the Tongass National Forest for current and future generations. The Tongass National Forest is a unique, vast ecosystem, the likes of which are rapidly depleting across the world. Destroying environmental resources for economic gain, although necessary in some circumstances for human survival, is not the best use of the resources in the Tongass National Forest. We are deeply concerned that destroying native populations and habitats while obtaining minimal economic profits is

not the best use of these public lands. We hope this comment will help the USFS make excellent decisions to manage the Tongass National Forest and its unique natural resources. We request the USFS

89 40 C.F.R. [sect]1505.3 Implementing the decision.

90 Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29,43 (1983).

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select Alternative 1 regarding the management of the Tongass National Forest for the following reasons:

- The Tongass Land Management Plan (TLMP) of 2016 should be updated prior to changing the roadless designation. Alternative 1 follows and honors the current land and resource management plan and does not attempt to force a forest management change.
- The USFS failed to fully consider the adverse impacts the elimination of the Roadless Rule will have on local economies, existing industries, and ecosystem services including carbon sequestration. Alternative 1 best promotes these values as it would not allow for the destruction of livelihoods while profits remain static.
- The USFS needs to complete a cost benefit analysis to adequately analyze the ecological, social, and economic impacts of eliminating the Roadless Rule. Alternative 1 best protects the existing resources for current and future generations.
- The USFS did not adequately address why Alternative 6 is the preferred choice when addressing the three key issues. Alternative 1 best ensures that roadless values are upheld, economic opportunities remain viable, and natural resources are adequately protected, thus supporting all three Key Issues. The preservation of roadless areas is vital for the continued vitality of the Tongass National Forest, and the final EIS should not endorse the eliminating of the Roadless Rule.
- The USFS violated section 7 of the Endangered Species Act (ESA) by not asking
the United States Fish and Wildlife Service (FWS) and the National Marine

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Fisheries Service (NMFS) if any threatened or endangered species are present in the Tongass National Forest. Alternative 1 protects all sensitive species and does not trigger the activation of the ESA.

Overall, we support the adoption of Alternative 1 as it best protects ecological

and cultural resources and ensures that economic resources are not wasted on areas with minimal profit opportunities. If Alternative 2-6 are selected, roadless values will not be achieved for the Tongass National Forest and, especially considering changing climatic conditions, will create a less resilient and more at-risk ecosystem.

Thank you for taking the time to read and consider our comment. If you have any questions or require additional

information, feel free to contact us with the information provided below.

Best,

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