



August 29, 2016

Delivered via email and hand delivery

USDA Forest Service
Alaska Region
Attn: Tongass Objections
709 W. 9th Street
Juneau, AK 99801-1807

objections-alaska-regional-office@fs.fed.us

RE: Objections Regarding June 2016 Tongass National Forest Land And Resource Management Plan Amendment Draft Record of Decision, Final Environmental Impact Statement and Final Plan

Dear Reviewing Officer:

This letter is in response to the July 1, 2016, Federal Register Notice of Objection Filing Period regarding the June 2016 Draft Record of Decision (“ROD”) and Final Environmental Impact Statement (“EIS”) documents for the proposed Tongass National Forest Land and Resource Management Plan (“Tongass Plan” or “Plan”) Amendment (“Amendment”), including the June 2016 proposed Final Plan document that would incorporate the selected alternative identified in the Draft ROD. The responsible official for the proposed Amendment and these documents is Mr. Earl Stewart, Forest Supervisor, Tongass National Forest.

This letter sets out the objections of Sealaska Corporation (“Sealaska”) to various content and omissions in the Draft ROD, Final EIS, and proposed Final Plan, in accordance with 36 C.F.R. Part 219, Subpart B. These objections are based upon and relate to Sealaska’s comments in its February 22, 2016 letter regarding the Draft EIS documents for the proposed Amendment, or to Sealaska’s concerns regarding changes in the current proposed final documents from the Draft EIS documents, for which Sealaska did not have a prior opportunity to comment.

Our concerns at this stage, particularly after reviewing comments on the Draft EIS submitted by the State of Alaska, Senator Lisa Murkowski, the Alaska Forest Association and others, are not necessarily limited to the objections described in this letter or our prior comment letter. In a separate letter, we are requesting a consultation meeting with the Regional Forester and Under Secretary of Agriculture for Natural Resources and Environment pursuant to 36 C.F.R. § 219.4(a)(2) or other appropriate authorities, to address our concerns. However, for purposes of the objection process, and in an effort to

focus in that process on some priority issues, we have limited our objections in this letter to those identified and described in Section B below.

In this letter, references to the June 2016 documents identified above are as denoted above. References to the November 2015 Draft EIS for the proposed Amendment are denoted "Draft EIS." References to the November 2015 "Proposed Land and Resources Management Plan" document are denoted "Proposed Plan." References to Sealaska's February 22, 2016 comment letter regarding the Draft EIS and Proposed Plan documents are denoted "Comment Letter." The Sealaska Comment letter and its attached graphic, "Southeast Alaska Lands and Preservation Status" are incorporated by reference in this letter, in accordance with 36 C.F.R. § 219.54(b).

A. Background on Sealaska Corporation's Interest in the Tongass Plan

As indicated in the Comment Letter, Sealaska is the Alaska Native Regional Corporation for Southeast Alaska, representing more than 22,000 shareholders, predominantly of Tlingit, Haida and Tsimshian descent. The traditional homeland of the Tlingit, Haida and Tsimshian includes what is now the Tongass National Forest. Our people have been stewards of the lands and waters of Southeast Alaska for more than 10,000 years. Through the Alaska Native Claims Settlement Act ("ANCSA"), including the most recent amendments in Public Law 113-291 enacted in December 2014, we are completing the process of selecting and receiving title to roughly 365,000 acres of lands within the region. Thus, we are, at this point, the largest non-federal owner of forest lands in Southeast Alaska.

Sealaska is a leader in forest products and forest land management as a result of development that we have pursued on our own lands, including young growth/second growth management and marketing. We have been engaged in scientific studies on our lands to determine the best practices for young growth management, habitat restoration, and healthy fish and wildlife populations. Sealaska is also a leader in development of biomass energy use. Together with the Sealaska Heritage Institute, we promote Alaska Native arts and ensure the protection of cultural and historical resources, including sacred sites. Sealaska has been an active participant in Tongass National Forest planning processes since the original Tongass Plan was issued in 1979, as well as additional consensus based efforts to address multiple uses in the Tongass such as the Tongass Futures Roundtable. Sealaska submitted comments and actively participated in the process for revising Forest Service land and resource management planning regulations associated with publication of final revised regulations that took effect in May 2012 (the "2012 Planning Rule").

Sealaska, on behalf of its shareholders, has important interests and concerns regarding federal management actions that can affect planning and management of the Tongass National Forest, Sealaska property, and other lands and waters in Southeast Alaska. Sealaska represents the unique and special relationship that the original human occupants and stewards of Southeast Alaska lands and waters have to these natural resources. We want to ensure that the Forest Service considers Sealaska's unique perspective based on our cultural, social, environmental and economic experience in the region, and our desire to provide due consideration to the needs of future generations in accordance with our core cultural value of *Haa Shuka*.

Sealaska's objections and related concerns expressed in this letter are based on our review, to date, of the voluminous Draft ROD, Final EIS and proposed Final Plan documents that have been made available for public review during this objection period, and reflect Sealaska's participation with the Forest Service and other stakeholders in meetings, discussions and through other communications since the issuance of the "Transition Framework" materials in 2010. They also reflect our long-standing, broad participation and interest in Tongass National Forest management.

B. Objections

Each of the numbered objections described below is important to Sealaska. They are listed and numbered in no particular order of importance.

1) Issue: Inadequacies of the current young growth timber inventory and other information and analysis to support the proposed transition to 41 million board feet ("mmbf") young growth and 5 mmbf old growth of annual harvest within the next 15-16 years.

Explanation of the Objection:

In the Comment Letter, Sealaska expressed our strong concerns and questions about the supporting analysis and practical viability of what is proposed for transition to predominant young growth harvest and other elements of the proposed Amendment. We questioned the assumptions and adequacy of the analysis in the Draft EIS regarding young growth timber inventory, the supply of timber from Native Corporation and State lands (for which there is an erroneously high estimate in the Draft EIS) and other assessments of demand, supply, economics, and industry and community needs dependent upon Tongass timber harvest. We also expressed the need for broader active, realistic, and adaptive management of the Tongass. We explained our further general concern that the proposed Amendment is in response to a directive from the Secretary of Agriculture, and is being pushed for completion according to a political timeline that may not yield a viable, sustainable transition amendment. See Comment Letter, pages 3, 6-8.

Our review indicates little change between the Draft EIS and Proposed Plan documents and the Draft ROD, Final EIS and proposed Final Plan documents that is responsive to these concerns. There is text in the Draft ROD and other places indicating that the 46 mmbf per year Projected Timber Sale Quantity ("PTSQ") for the first 10-15 years of the Plan Amendment is an estimate and not a ceiling, goal or target, and that another Plan amendment may be needed if the current proposed Plan Amendment inhibits timber supply or other unanticipated changes in circumstances occur. See, e.g. Draft ROD, pages 29, 42. The Draft ROD states that the ongoing inventory projects will be used in Plan Amendment implementation, but that the Plan Amendment decision will not be delayed to wait for more comprehensive inventories to be completed. *Id.*, page 32. These text comments are not sufficient to satisfy our concerns.

Current discussion in the Final EIS and supporting demand analysis as well as other sources confirm that the 46 mmbf PTSQ and related young growth transition components of the proposed Amendment will restrict timber supply below unconstrained market demand for Tongass old growth timber. See, e.g. Final EIS, page 3-494; Jean M.

Daniels et al. Tongass National Forest Timber Demand: Projections for 2015 to 2030, PNW-GTR-934 (2016), pages 1, 32, 34, 36. The Draft ROD itself and other sources raise at least serious questions about the extent of any market for Tongass young growth timber and whether the young growth transition proposed in the Draft ROD will be financially feasible. See, e.g., Draft ROD, page 10; Final EIS, Appendix I, Formal Comments of Senator Lisa Murkowski, pages 12-16. Federal funding to complete the required inventories and analyses remains uncertain and our review does not indicate any commitment to that funding in the Draft ROD or Final Plan documents. Reference to the mere potential for a subsequent Tongass Plan amendment at some future time does not adequately address the clear risk of destroying most or all of what remains of the Southeast Alaska forest enterprises and infrastructure through excessive restrictions premised upon inadequate data and analysis and erroneous assumptions.

Changes that would improve the proposed Amendment:

The final ROD and Amendment should be deferred until at least after completion of the updated young growth timber inventory work that is anticipated in 2017 and evaluation of any changes in the ROD and Amendment appropriate to reflect the results of that inventory. The final ROD and Amendment should also be deferred until corrections are made to the overstated estimates of ongoing timber supply from Native Corporation and State lands and other shortcomings in the EIS and supporting analysis described in the Comment Letter, addressed further in Objection Issues #2 and #3 below. The Forest Service should then complete further evaluation of adjustments to the ROD and Amendment, with appropriate opportunities for public review and comment, as well as consultation with Sealaska and other interested Alaska Native and non-federal entities.

If the final ROD and Amendment are not deferred to accommodate these corrections and further analysis and adjustment, then the ROD and Final Plan documents should include a clear and firm commitment to complete a prompt, early review and consideration of further changes to the Amendment based upon the updated inventory as soon as it is completed along with other corrections and further analysis, through the Plan amendment process.

2) Issue: Erroneously large projections of timber supply from Sealaska and other non-federal lands.

Explanation of the Objection:

The Final EIS like the Draft EIS presumes an average of 70 mmbf of annual timber harvest from Native Corporation lands as well as 20 mmbf from State land for the first decade after the Plan Amendment. See, e.g. Final EIS page 3-350, Table 3.13-11. In the Comment Letter, we pointed out that these estimates are substantially too high, despite Sealaska making accurate lower recent and projected harvest future harvest information available to the Forest Service. Sealaska lands, which are the primary source of private timber in Southeast Alaska, will average less than a maximum of 45 mmbf per year for the next 20-25 years, and harvest from Village Corporation lands will be far less. See Comment Letter, page 6. We anticipate that total harvest from Native Corporation land will average no more than 50 mmbf per year over the next ten or more years.

In fact, as we prepared this comment letter, we talked to 8 of the 12 village corporations in the Southeast Region and none of them had significant timber harvest plans over the next 20 years. Only Long Island Trust (Klukwan, Inc. Village Corporation) indicated that they might have a one-time sale of about 700 mbf (0.7 mmbf) over this period of time. The more precise projection for total Alaska Native Corporation harvest over the next 20 years is an average of 45 mmbf per year. We also note that the State of Alaska in its comments on the Draft EIS has also indicated that the estimate of 20 mmbf from State land is erroneously high. Final EIS, Appendix I, February 22, 2016 State of Alaska - Agency Comments, page 7. Moreover, the Final EIS contains inconsistent information regarding projected timber supply, with the Final EIS Appendix C, Table C-2, page C-13, indicating only an approximate 6 to 7 mmbf per year in timber harvest from Native Corporation lands.

The overestimation of non-federal timber supply is a critical error that the Forest Service has relied upon directly in determining the 46 mmbf per year amount of timber it will supply under the Amendment to meet "residual" demand under the Tongass Timber Reform Act and to otherwise maintain a viable forest industry and infrastructure in Southeast Alaska. See, e.g. Final EIS, page 3-349 to 3-350 (referencing the erroneously high 90 mmbf estimate as used in the Daniels et al. demand study and adding the 46 mmbf projected national forest harvest to the 90 mmbf amount to arrive at a 136 mmbf total maximum estimated timber harvest in Southeast Alaska during the first decade after the Amendment takes effect); Draft ROD, page 27 (adopting the 46 mmbf Daniels et al. estimate as the "demand" for Tongass timber). This type of error has been held to be a fatal flaw in past litigation over Tongass Plan revision and amendment. *NRDC v. U.S. Forest Service*, 421 F.3d 797, 809-13 (9th Cir. 2005). Limiting Tongass National Forest timber supply to an average of 46 mmbf per year given this erroneously high estimate of supply from non-federal lands will ultimately result in the further demise of the timber industry in the Region and in Alaska.

Changes that would improve the proposed Amendment:

As indicated regarding Objection Issue #1 above, the final ROD and Amendment should be deferred until at least: 1) corrections are made to the erroneously high estimates of ongoing timber supply from Native Corporation and other nonfederal lands and other shortcomings in the EIS and supporting analysis described in the Comment Letter; and 2) further evaluation of adjustments to the ROD and Amendment are completed, with appropriate opportunities for public review and comment, as well as consultation with Sealaska and other interested Alaska Native and non-federal entities. The 32 mmbf overestimate from Native Corporation and other non-federal lands should be added into the Tongass PTSQ to adequately address the demand for timber from the Tongass.

If the final ROD and Amendment are not deferred to accommodate these corrections and further analysis and adjustment, then the ROD and Final Plan documents should include a clear and firm commitment to complete a prompt, early review and consideration of further changes to the Amendment based on the updated inventory and other corrections and further analysis, through the Plan amendment process.

3) Issue: No recognition of Sealaska's indicated demand approximating 20 mmbf per year of Tongass National Forest timber.

Explanation of the Objection:

The 46 mmbf per year PTSQ and related projections of demand for Tongass timber remain unchanged in the Draft ROD and other documents, and we have not yet identified any other particular response or recognition regarding Sealaska's known interest in approximately 20 mmbf per year of Tongass timber that we pointed out in our Comment Letter. Comment Letter, page 7. The Forest Service is ignoring a known component of demand for Tongass timber, in addition to what it has based its 46 mmbf PTSQ upon, and which cannot be supplied from other sources. This is another error that needs to be corrected to avoid a fatal flaw in the analysis supporting the Amendment, and to arrive at an Amendment that supports a viable forest industry and meets Alaska Native and community needs in Southeast Alaska during the young growth transition period.

Changes that would improve the proposed Amendment:

In the final ROD and Plan Amendment document, increase the PTSQ to at least 98 mmbf per year (to account for the 20 mmbf of demand from Sealaska and the 32 mmbf of erroneously high estimate of supply from non-federal lands explained in Issue #2 above); or defer finalizing the ROD and Amendment until at least: 1) corrections are made to recognize the Sealaska demand for Tongass timber as well as to the overstated estimates of ongoing timber supply from non-federal lands and other shortcomings in the EIS and supporting analysis described in the Comment Letter; and 2) further evaluation of adjustments to the ROD and Amendment are completed, with appropriate opportunities for public review and comment, as well as consultation with Sealaska and other interested Alaska Native and non-federal entities.

If the final ROD and Amendment are not deferred to accommodate these corrections and further analysis and adjustment, then the ROD and Final Plan documents should include a clear and firm commitment to complete a prompt, early review and consideration of further changes to the Amendment based on the indicated Sealaska demand, updated inventory and other corrections and further analysis, through the Plan amendment process.

4) Issue: Further restrictions in the "T77" watersheds and "priority conservation areas" (a change from the Draft EIS Alternative 5 and draft Plan Amendment).

Explanation of the Objection:

The Draft ROD and other documents recognize that some of the original "T77" watersheds have been conveyed to Sealaska and do not attempt to apply any restrictions to those. See, e.g. Draft ROD, page 6, note 3. However, the Draft ROD and Plan Amendment direction preclude old growth timber harvest in the T77 areas as well as Nature Conservancy/Audubon Alaska "conservation priority areas" that remain national forest lands, while allowing young growth harvest in some of these areas. Draft ROD, page 6. The restrictions upon timber harvest in these T77 and "conservation priority"

areas do not appear to have been proposed or discussed as part of Alternative 5 or other alternative considered in detail in the Draft EIS.

We are concerned that these additional restrictions have not been adequately analyzed and supported in the EIS for their effects on the available timber base and feasibility otherwise of providing adequate timber supply for a viable Southeast Alaska forest industry. Substantial changes in a proposed action or other alternative from the published draft to the final version of an EIS or other significant new information is a basis for requiring a supplement to the EIS to provide for further agency and public review and comment. 40 C.F.R. § 1502.9(c). See, e.g. *State of California v. Block*, 690 F.2d 753, 771-73 (9th Cir. 1982); *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 373 (1989).

We do not believe that these added restrictions are necessary to achieve fish, wildlife or other environmental or resource conservation and use objectives for the Amendment, given other standards and prescriptions that already apply in these areas. In our Comment Letter, we emphasized the huge number of watersheds and areas on the Tongass and other federal lands in Southeast Alaska where timber harvest and other active management and resource use are prohibited, and the small fraction of remaining available area for harvest. We also emphasized the risks that the proposed Amendment poses even absent the added T77 and “conservation priority areas” restrictions to providing a sufficient base of old growth as well as young growth timber for sustainable, renewable use to support viable industries and communities into the future. See, e.g., Comment Letter, Pages 6-9 and Attachment.

As our prior comments reflect, the existing land and resource use restrictions on the Tongass are already quite significant and burdensome for the goal of a multiple use forest and for the people who would like to live and thrive in Southeast Alaska. Imposing added restrictions in T77 watersheds or “conservation priority areas” without adequate analysis and process is not acceptable in this context.

Changes that would improve the proposed Amendment:

Delete the additional restrictions for T77 and “conservation priority” areas from the final Amendment. Defer further consideration of such restrictions until at least after further forest inventory and analysis have been completed as described under Objection Issue #1 above, and Amendment implementation progress has been monitored and evaluated for at least five years. If considered at a later date, allow for an appropriate level of public comment and ensure that T77 or “conservation priority” area protections are strongly supported by science and subject to peer review.

5) Issue: Inadequate discussion of benefits of the LUD II designations and release of withdrawn lands under the Sealaska lands legislation, Pub. L. No. 113-291, § 3002(b)(3)(ii).

Explanation of the Objection:

The Final EIS references the added LUD designations that were included in the Sealaska lands legislation, and some attendant benefits do appear to have been reflected

in the Old Growth Reserve review included as an appendix. See, e.g. Final EIS, page 3-463; Final EIS Appendix E, pages 10-11. However, other sections of the EIS focus only upon the loss of old growth reserve areas via conveyance to Sealaska under the statute. See, e.g., Final EIS, page 3-200; Final EIS Appendix D, pages D-6, D-7. The references to ANCSA withdrawn areas remain cryptic and do not appear to reference or recognize the release of withdrawn lands under the Sealaska lands legislation. See, e.g. Final EIS, page 3-302. There does not appear to be any detailed discussion of the beneficial environmental and national forest management effects of these statutory LUD II additions, which total approximately 150,000 acres, or the withdrawal terminations, which total approximately 300,000 acres. We described the need for such further evaluation and discussion in our Comment Letter. Comment Letter, Page 12. Further evaluation and discussion of these benefits would show less need for restrictions such as those proposed for the T77 watersheds and otherwise better inform and enable an improved Amendment decision.

Changes that would improve the proposed Amendment:

Complete improved, reasonably detailed EIS evaluation and discussion of the beneficial effects of the Sealaska land legislation LUD II designations and ANCSA withdrawal termination provisions in conjunction with the further evaluation and public review and comment and Alaska Native entity consultation process described under Objection Issue #1 above.

6) Issue: Lack of binding commitment to “no net loss” of timber base going forward (i.e. if some young growth or other lands are removed from the timber base through project level analysis or otherwise, then equal acreage/volume will be added to compensate).

Explanation of the Objection:

The Tongass Advisory Committee (“TAC”) final recommendations that include this component are attached as an appendix to the Final Plan document, and the Forest Service asserts that the selected alternative Plan Amendment is based upon and reflects TAC recommendations. See, e.g. Final Plan page 1-1, Appendix B; Draft ROD, pages 4, 31-32. However, we have not identified any commitment to such “no net loss” offsets in the Final Plan document standards, guidelines, implementation direction or other content. Sealaska expressed support for including this component in the Amendment in our Comment Letter. Comment Letter, page 6.

Changes that would improve the proposed Amendment:

The final ROD and Plan Amendment documents should contain a clear and firm commitment, including standards, prescriptions, and other direction for tracking any changes during implementation in the Tongass timber land base suitable and available for commercial timber harvest, and offsetting any losses in acreage with equivalent additions to compensate for the loss. This change will help assure continued capability to meet forest industry and community needs and the other Amendment objectives for young growth transition.

7) Issue: Inflexibility regarding consideration of some roads and timber harvest in inventoried roadless areas (“IRAs”) going forward.

Explanation of the Objection:

The draft ROD rejects proposals to consider rulemaking or to otherwise depart from the nationwide 2001 Roadless Rule, even as to previously inventoried roadless areas on the Tongass that had roads built within them while the 2001 Rule was not in effect. See, e.g., Draft ROD, pages 5, 17. This leaves only the limited exceptions for roads in IRAs that are contained in the 2001 Rule. *Id.*

We advocated more flexibility than this in our Comment Letter, in recognition of the unique unroaded nature of the Tongass and need for further road access to resources for not only timber, mineral and energy uses, but also for local resident subsistence, recreation, and other community economic, cultural and social activities. Comment Letter, pages 9-10. If not adapted to the Tongass, the Roadless Rule and its limited exceptions will continue to unnecessarily limit and restrict not only timber harvest but renewable energy and mineral development and other transportation and access needs, contrary to the stated purpose, need, and objectives of the Amendment. The Roadless Rule rigidity is driven by a political agenda, not genuine environmental, resource or user conflicts.

Changes that would improve the proposed Amendment:

The final ROD and Plan Amendment should at the least affirmatively provide for pursuing further rulemaking to amend the current Roadless Rule as applied to the Tongass, as appropriate to allow for road access identified as a need during Amendment implementation for project infrastructure or community access, and which does not fall within the scope of the limited exceptions for roads in IRAs that are in the current Rule. In the meantime, the final ROD and Plan documents should make clear that the location of a proposed transportation, energy, mineral or other project road in an IRA should not preclude full consideration at the project level of that component through the NEPA process, and pursuit of a Roadless Rule or further Plan amendment if necessary to implement the Project.

8) Issue: Inadequate commitment to coordinate and collaborate with Sealaska and other adjoining landowners and Alaska Native entities regarding management activities.

Explanation of the Objection:

We have not identified any notable added emphasis or other content regarding such collaboration in the Draft ROD and Proposed Plan documents, compared to the Draft EIS and draft proposed Amendment documents. The omission of Native Corporations from lists of entities with which to consult regarding subsistence and other issues and resources pursuant to 36 C.F.R. § 219.4 and other requirements appears to persist in the Plan Amendment and other proposed final documents. See, e.g., Final Plan document, page 4-65 (list of entities to contact in project scoping with respect to subsistence issues; includes tribal governments but omits Native Corporations). We

described the need for further emphasis and commitment to such collaboration and for such text corrections in our Comment Letter. Comment Letter, pages 4, 9, 11.

Changes that would improve the proposed Amendment:

Add a clear and firm commitment in the Final ROD and Plan Amendment documents to meaningfully coordinate and collaborate with Sealaska and other adjoining landowners and Alaska Native entities regarding management activities, beyond the current specific projects and initiatives that are underway. Complete the text review and corrections on Final Plan document page 4-65 and other appropriate locations in the Plan Amendment, as requested and described in the Comment Letter.

C. Lead Contacts and Request for Meeting

In accordance with 36 C.F.R. § 219.54(c)(1), Sealaska's lead contacts for communications regarding the objections and concerns set out in this letter are Jaeleen Araujo and Brian Kleinhenz, 907-586-1512, jaeleen.araujo@sealaska.com and brian.kleinhenz@sealaska.com. In accordance with 36 C.F.R. § 219.57(a), we request a meeting with you at Sealaska offices in Juneau, Alaska to address our objections and concerns at a mutually convenient time prior to the end of October 2016.

D. Closing Comments

On behalf of our 22,000 shareholders and our impacted Southeast Alaska communities that are home to our shareholder base, thank you for the opportunity to further participate in the process for completing a decision regarding an Amendment to the 2008 Tongass National Forest Plan regarding young growth management transition and other issues. We trust that you will consider and be responsive to the objections and concerns described in this letter, and we look forward to continued dialogue and collaboration as the Forest Service continues the Amendment process and beyond, through implementation.

Sincerely,
SEALASKA CORPORATION



Anthony Mallott
President & Chief Executive Officer

cc: Beth Pendleton, Regional Forester, Alaska, USDA Forest Service
Robert Bonnie, Under Secretary of Agriculture for Natural Resources and Environment