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Alaska Roadless Rule Citizen Advisory Committee: Identifying Issues and Challenges to Explore Through Rulemaking

Issues identified during October 2-3, 2018 Committee meeting

The Alaska Roadless Rule Citizen Advisory Committee (the Committee) held its first meeting on October 2-3, 2018 in Juneau, Alaska. The objectives of the first meeting were to review and discuss the roadless rulemaking process, lessons from previous rulemaking efforts, and the Committee's charge, timeline, process, and desired outcomes; articulate the interests of each Committee member and define commonly held principles to underpin future deliberations; and identify specific topics and background information that will be needed to develop options for the rulemaking effort.

This summary provides a high-level overview of the issues, challenges, and unique considerations for roadless rulemaking in Alaska that the Committee identified during its first meeting. These lists of issues and considerations are not meant to be exhaustive or comprehensive, nor do they represent consensus of all Committee members. Rather, they provide a high-level overview of the topics that arose during discussion at the Committee meeting. A more detailed summary will follow in the coming days.

Principles for Developing Options for Rulemaking

The Committee developed a list of key principles to frame the development of options to be considered by the state of Alaska in the rulemaking process. Throughout the Committee's deliberations, the group will consider whether options reflect those that are:

- Pragmatic;
- Flexible;
- Durable/sustainable (i.e., stand the test of time);
- Balanced between protection and access;
- Beneficial for sustainable community economic development;
- Affordable/economically feasible;
- Workable at the local decision-making level;
- Provide certainty and predictability; and
- Fall between the 'bookends' of the process (i.e., no-action alternative and complete exemption).

As the Committee continues its deliberations, they will refer back to this list as a general guide for identifying options. Their continued discussions will allow the opportunity to provide greater context regarding how to define and interpret each principle in greater detail.

Identification of Issues and Challenges

Each Committee member articulated his/her interest(s) in the process; in other words, they discussed the issues that need to be explored through the rulemaking process, challenges that they currently face due to the Roadless Rule, and opportunities that may emerge through options development. This list of issues does not represent consensus among the Committee but provides an overview of the issues mentioned through their discussions.

Access for resource development

Several Committee members discussed issues and challenges associated with resource development and projects associated with resource extraction in currently designated Roadless Areas. Across several industries, members expressed the need for roads to allow for economically viable projects, which may require a different view of what the Forest Service currently considers "reasonable access.". Ultimately, the more affordable access is for a project, the more cost-effective the overall project will be. Specific comments included the following:

- **Enable continuity of small timber-based operations by providing better access to the resource.** In addition to the restriction on road-building, the Rule also currently restricts timber harvest, regardless of scale. Some members noted that in order to keep a viable timber industry in Southeast Alaska, there must be a sufficient land base from which to harvest timber. Concerns ranged from the ability to sustain local mills, individual or small-scale logging for specific niche products, personal use harvest for firewood or other uses, and cultural/ceremonial use for Native Alaskan tribes.
- **Provide affordable clean energy for Alaskans.** Members discussed the need for better and more flexible access to affordable and economically-viable energy sources, such as hydroelectric power. They noted the need to connect communities that currently rely on diesel generation to existing and future hydropower facilities, and that this would allow for options that are better for the environment (e.g., not hauling fuel over open water and reducing carbon outputs) and the economy (e.g., costs are reflected as rate decreases/increases for the rate payer/consumer). In addition to access for new energy sites, the long-term value of road access for installation, operations, and maintenance of electrical transmission infrastructure was also expressed as a key component to economic delivery of energy.

- **Allow for tourism-based businesses to thrive.** Some members noted the importance of the perception of remoteness and undisturbed nature for the tourism and visitor services industries. Some questioned whether changes to the Roadless Rule could create the ability to disperse more tourists and provide more tourism opportunities by allowing greater access. However, this needs to be balanced with ensuring that areas of pristine nature exist for these visitors (see protection below).
- **Offer more economically stable mining exploration and development.** The Mining Law of 1872 guarantees reasonable access across federal lands to mining claims; however, the Roadless Rule, as applied, negates such rights for access based on the interpretation of "reasonable access." While several mining exploration projects have been approved in Roadless Areas, they did not involve the construction of roads because of this restriction. In addition to addressing economic feasibility and right-of-way property rights, roads could also address safety precautions associated with mining exploration (e.g., removing the need to find a safe space for landing a helicopter without the ability to cut hazard trees).
- **Align the Rule with the land management planning process.** Several members identified the disconnect between the restrictions placed by the Roadless Rule and the underlying land use designations (LUDs) identified through the forest planning process. Specifically, members highlighted that 2/3 of the current LUDs designated for development are within Roadless area boundaries, which restricts development that is intended by the land management plan.
- **Consider a full exemption alternative in the analysis of options.** A few members stated that their preference for the rulemaking process is for a full exemption from the Roadless Rule to remove restrictions from resource access (i.e., the full exemption "bookend").

Protection of conservation values

While many comments focused on needs for access to resources (as described above), some comments focused on the importance of environmental protections for fish and wildlife habitat and other conservation values. Some members shared concern that there are already many areas of the Forest that are protected for conservation (e.g., wilderness, LUD II, etc.), while others emphasized the importance of balancing access with resource protection. One member noted this as the need for considering the triple bottom line – environmental, economic, and social considerations. Specific comments included the following:

- **Protect habitat for fisheries resources**. Some members highlighted the importance of clean water and suitable habitat for wild salmon, and access to clean water and electricity needed for fish hatcheries, which provide for commercial, sport, and subsistence fishing. It was noted that while the 2001 Roadless Rule refers to water for drinking, the prevalent standard for water quality in Alaska is to sustain aquatic life, typically a higher standard than drinking water for human consumption.
- **Relieve environmental pressures and ensure development minimizes impact.** While some members emphasized that project-level environmental protections are required already, others emphasized that the scale of the disturbance/impact should also be considered. Members suggested balancing impacts during the Rulemaking process and avoiding a "one-size-fits-all" or "blanket" restriction.
- **Consider how increased access may impact existing uses in current Roadless Areas.** There are many existing uses within Roadless Areas on the Tongass, including fishing and hunting for subsistence and commercial interests, as well as recreation outfitter/guide services, that rely on the natural environment. With that in mind, there was a suggestion to take into account the value of the pristine nature and wilderness character found in the Tongass and consider whether protection of undisturbed nature offers the most economically beneficial use for some areas. In other cases, different forms of resource development may represent the best use of a particular area.
- **Consider increased protection in some high value conservation areas.** One member highlighted that in both the Idaho and Colorado state-specific Roadless Rules, there were areas with increased environmental protections. In that context, the Tongass 77 watersheds and TNC/Audubon High-Value Conservation Areas were mentioned as areas with special importance for fish and wildlife habitat, and therefore, potential areas to consider continued (or increased) protections.
- **Consider the context of existing protected areas throughout the region.** Several comments were made regarding the proportion of existing protected areas throughout Southeast Alaska. Specifically, the Tongass National Forest represents approximately 80% of the land base in the region, and 90% of the Forest is under some form of protected status, including Roadless Areas, Wilderness, and LUD II designations. In this context, a concern was also expressed that the current Rule provides authority to the Forest Supervisor to add acres to the inventoried Roadless Areas (and thereby to the proportion of protected areas) if/when roads are decommissioned.

Community stability and economic development

Several members commented on the communities that are surrounded by the Tongass National Forest and the importance of access to forest resources for these communities for community sustainability, economic opportunities for the region, and subsistence uses for community and tribal members. Specific comments are included below:

- **Provide better access to resources near communities.** This includes considerations for diversifying local economies to include a variety of forest-based industries, thereby providing opportunities to support multiple interests, offer more options for year-round employment, and preserve the ability to maintain the "Alaska way of life" for future generations. Access needs may include resource access to improve economic development for local businesses, access to recreational opportunities that encourage Alaskans to assume stewardship responsibility, and access to subsistence resources for current and future generations.
- **Connect communities through transportation and energy corridors.** Currently there are restrictions on developing roads that would connect communities with each other and the rest of the area. One member questioned the impact of the Roadless Rule on the ability to build roads in legislated transportation rights-of-way. There are also issues with powerline interconnection between communities. As described above, access to affordable energy is important to community sustainability.
- **Ensure access to the commons for subsistence resources.** In a forest-based region, many Southeast Alaska residents rely on subsistence resources, including berry-picking, hunting, fishing, and firewood gathering, among other uses. One member noted that especially for older residents, roads are important for accessing these resources.

Certainty and predictability

In addition to the specific comments outlined above regarding resource development, environmental protection, and community sustainability, members also discussed the amount of uncertainty caused by the current Roadless Rule. They mentioned that this uncertainty is tied to political decision-making, lengthy and costly planning, and the top-down decision-making structure. Specific comments are included below:

- **Avoid endless planning processes to create something long-term and durable.** Current planning processes risk changes during every change in administration. As noted by the term "durable" in the list of principles, there was a desire to see a Rule that withstands the changing political climate.

- **Increase certainty for project-level planning.** The Roadless Rule currently adds tremendous uncertainty around development projects. In the preliminary phases of a project, it can take millions of dollars and an extensive environmental assessment process before the project reaches the point of determining whether it can proceed. Due to these costs and timelines, projects often do not make it past the exploration phase, or the economic feasibility of the project may diminish by the time the project reaches the decision-maker. This uncertainty also restricts the ability to secure project financing.
- **Improve and localize decision-making.** In some cases, decisions about project approval is made at the national level, by the Secretary of Agriculture, rather than a local decision-maker. Related, there is not a process for prioritizing decision-making; therefore, it is unclear whether different types of projects will be prioritized for approval, which is directly related to the uncertainty described above.

Unique Considerations for Rulemaking in the Tongass

Throughout the discussion, Committee members highlighted characteristics of the Tongass National Forest and Southeast Alaska that offer unique considerations for Roadless Rulemaking for the state. A subset of members discussed these considerations and developed the following list:

- The Tongass is the largest national forest.
- There are 34 communities spread across Southeast Alaska, many of which are isolated and surrounded by federal lands.
- Southeast Alaska is an archipelago region consisting of significant amounts of shoreline and islands.
- Roadless Areas in the Tongass are comprised of 80,000 acres of “roaded” Roadless.
- The Tongass has a complicated planning history, representing over three decades of planning, which further complicates implementation of a plan for the Forest.
- The Tongass is frequently the focus of national and political interest and attention.
- There have been several instances of legislative Congressional actions unique to the Tongass and/or the state of Alaska, including the Tongass Timber Reform Act (TTRA), the Alaska National Interest Lands Conservation Act (ANILCA) and the "no more" clause, and 4407 transportation corridor easements.
- There is abundant sea life and wildlife with no federally listed species, primarily due to good habitat with clean air and water.
- There is a lack of diverse ownership in the region with very little private land.