December 17, 2019

Alaska Roadless Rule
USDA Forest Service
Alaska Region
P.O. Box 21628
Juneau, Alaska 99802–1628

RE: U.S. Forest Service Proposed Rule, "Special Areas, Roadless Area Conservation: National Forest System Lands in Alaska"

Dear Forest Service Rulemaking Team,

Thank you for the opportunity to provide public comment on the proposed rule, "Special Areas, Roadless Area Conservation: National Forest System Lands in Alaska" (RIN: 0596-AD37), published on October 17, 2019. Taxpayers for Common Sense (TCS) is a national nonpartisan budget watchdog organization that has tracked government waste issues and the management of natural resources on federal lands for nearly 25 years. Given the long history of below-cost timber sales in the Tongass National Forest and the economics of timber harvest in inventoried roadless areas, TCS is concerned the proposal to exempt the Tongass from the 2001 Roadless Rule will cost American taxpayers tens of millions of dollars in increased timber subsidies.

Instead of moving ahead with the preferred alternative in the proposed rulemaking, TCS urges the Forest Service to re-examine and reform its current administration of timber sales in the Tongass. Implementation of such reforms would enable the development of a rule that better aligns the Forest Service's management priorities for the forest with the needs of the local and indigenous communities and the agency's responsibility to federal taxpayers.

Roadless Rule Background

The U.S. Forest Service manages 193 million acres of public forests and grasslands collectively known as the National Forest System. The Tongass National Forest (Tongass) in Southeast Alaska is the nation's largest at 16.7 million acres, roughly the size of West Virginia. Every year, the Forest Service prepares and conducts sales for the rights to harvest millions of board feet of timber from the Tongass. Since 2011, when the U.S. District Court for the District of Alaska reinstated the 2001 Roadless Area Conservation Rule for the Tongass, the Forest Service has been precluded from conducting sales for commercial timber harvest inside the forest's inventoried roadless areas. The current rulemaking promulgated by the Forest Service seeks to remove the protections of the 2001 Roadless Rule's from the Tongass.

As stated in the proposed rule and accompanying materials, the Forest Service's Alaska Roadless Rule preferred alternative would fully exempt the Tongass National Forest from the protection provided by the Roadless Area Conservation Rule (Roadless Rule).[1] Adopted by the Forest Service nearly two decades ago, the Roadless Rule generally prohibits road construction and commercial logging within national forest inventoried roadless areas, including 9.2 million acres in the Tongass National Forest.[2] A full

[1] U.S. Department of Agriculture, Proposed Rule, "Special Areas, Roadless Area Conservation: National Forest System Lands in Alaska," October 17 2019. 84 FR 55522
[2] U.S. Department of Agriculture, "Alaska Roadless Rulemaking Questions and Answers," April 2019. https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd595057.pdf

exemption for the Tongass would have major adverse economic impacts nationally and regionally, while providing few if any benefits.

While developing the current proposed rule, the Forest Service put together five separate alternatives for altering the 2001 Roadless Rule, in addition to a no action alternative maintaining the status quo. The first four of these alternatives would withdraw areas from the current roadless acreage to varying extents and create new categories for managing the remaining roadless areas with fewer or greater restrictions than the current Roadless Rule. The last, Alternative 6, fully exempts the Tongass from the Roadless Rule and is the Forest Service's preferred option.

The Forest Service developed and describes each of the alternatives under consideration in the Draft Environmental Impact Statement (DEIS) accompanying the rule as opening new areas of the Tongass to timber harvest and roadbuilding to varying degrees. From the Forest Service's published materials, it's clear the intent of the rule is to provide for increased timber harvest in the Tongass. As these materials indicate, the rule would not materially impact the ability to carry out energy, mining, communications, and infrastructure projects throughout the forest:

> *Exploration, mining, and mineral processing activities, including road construction and reconstruction, are presently allowed in [Inventoried Roadless Areas] and would continue to be allowed under all alternatives…*
>
> *None of the alternatives are expected to substantially affect the development of energy projects or related infrastructure.* (DEIS, page 3-51)

Fully exempting the Tongass from the Roadless Rule solely or primarily for the purpose of expanding timber sales is particularly unjustified and fiscally reckless given the Forest Service's long history of losing millions of taxpayer dollars on these sales. Below cost timber sales effectively subsidize the timber industry over other economic interests in the region.

Below-Cost Timber Sales in the Tongass

The Forest Service has and continues to administer timber sales in the Tongass that generate net losses for the agency. The problem has been rampant for decades, as the costs to administer the federal timber sales program regularly exceed receipts.

Since the 1980s, the U.S. Government Accountability Office (GAO) has criticized the Forest Service for preparing and conducting these "below-cost" timber sales in the Tongass. In its first report on the timber program, the GAO documented that the problem was widespread and identified 433 out of 1,630 sales in four Forest Service regions in fiscal year (FY) 1981 that had been sold for a collective loss of $64 million. Similarly, the report found that 42 percent of sales conducted in regions 1, 2, 4, and 6 in FY1982 had been below-cost and generated $92.8 million in total losses.[3]

In 1988, the GAO reported that the Forest Service's timber sales program in the Tongass alone had lost a total of $22.1 million in FY1986, equivalent to roughly $51.5 million today.[4] Over several years in the 1990s, the GAO returned to the subject and audited the Forest Service's timber program accounts for the

[3] General Accounting Office, RCED-84-96, "Congress Needs Better Information on Forest Service's Below-Cost Timber Sales," June 28 1984. Regions 1,2,4 and 6 include every state from Kansas north to North Dakota and west to Washington, excluding California.
[4] General Accounting Office, RCED-88-54, "TONGASS NATIONAL FOREST: Timber Provision of the Alaska Lands Act Needs Clarification," April 11 1988.

Tongass and other forests.[5] According to budget data published by the agency, the Forest Service's timber program lost $210 million from FY1992 to FY1997, in today's dollars, or roughly $35 million per year. Even after allowing for the Forest Service's industry-friendly accounting practice of accepting road credits instead of cash for timber,[6] which Congress rightly ended in FY1999, the Tongass timber program still lost more than $11 million per year on average over those six years.

Recent Estimates of Timber Sale Losses

In 2016, the GAO reported that from FY2005 to FY2014, the Forest Service expended an average of $12.5 million annually for timber-related activities in the Tongass and received only $1.1 million on average in receipts from timber harvest, resulting in an average net loss of roughly $11.4 million per year.[7] The GAO noted that those totals did not take into account the millions of dollars the Forest Service spends annually to build and maintain roads in the Tongass National Forest. However, these roads are an important part of the timber sale program costs. The Forest Service has acknowledged that the majority of roads in the Tongass were built for timber harvest purposes.[8] The bottom line is road expenses are timber expenses.

Using the GAO's 2016 methodology, but including road expenses, TCS recently published a report reviewing the Tongass timber program's finances over the 20-year period from FY1999 to FY2018.[9] The report concluded that the Forest Service lost $600 million through its Tongass timber program over those 20 years, after adjusting for inflation, or roughly $30 million per year.

In the TCS analysis, six budget line items were included as outlays associated with timber sales. These six budget accounts fund three types of Forest Service activity: timber sale preparation, reforestation, and road building. Other expenses that are necessary for timber sales but primarily serve other Forest Service missions, such as forest inventory and monitoring activities, were not included.

It is worth noting that the choice of methodology for calculating Forest Service expenses is almost rendered moot by the paltry revenues generated by the Tongass timber program. Over the last 20 years, the Forest Service collected just $33.8 million, in 2018 dollars, or $1.7 million per year on average. That level of revenue is insufficient to cover one-tenth of the agency's Forest Products budget account alone. The Tongass timber program is a money-loser by any measure.

Using our conservative methodology to analyze budget data available for 26 of the last 33 years, we conclude that the Tongass timber sales have cost taxpayers more than $850 million dollars during this period.

These losses are not unpredictable. They occur year after year, sale after sale with little to no exception. Fundamentally, the system is flawed. Systemic problems coupled with a legislative mandate for sales to appraise positive have ensured federal taxpayers lose on timber sales. Overwhelmingly, the Forest Service program prioritizes the logging industry and its interests over that of federal taxpayers. Without reform, the program will undoubtably continue to tally financial losses.

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[5] GAO, RCED-95-237FS; GAO, RCED-96-122R; GAO, RCED-99-24; GAO, RCED-99-174

[6] The Purchaser Credit Program allowed timber harvesters to accrue credits equal to their costs for building some timber access roads and then pay the Forest Service for the timber with those credits. For more information, see Congressional Research Service report 97-706, "Forest Roads: Construction and Financing," July 16, 1997. The program was ended through P.L. 105-277 §329

[7] GAO, "TONGASS NATIONAL FOREST: Forest Service's Actions Related to Its Planned Timber Program Transition," April 2016.

[8] U.S. Forest Service, "Final Environmental Impact Statement: Tongass Land and Resource Management Plan." June 2016. Appendix C, pg. C-4

[9] Taxpayers for Common Sense, "Cutting Our Losses: 20 Years of Money-Losing Timber Sales in the Tongass." October 2019. https://www.taxpayer.net/energy-natural-resources/cutting-our-losses-tongass-timber/

The Proposed Rule's Effect on Timber Sales

Despite its focus on timber development, the Forest Service asserts the rule would not significantly change timber harvest levels in the Tongass.[10] The basis for this claim is that the target for timber sales of 46 million board feet (MMBF) per year set in the 2016 Tongass Land Management Plan would not change under the rule.[11] This is misleading. Targets are not reality. Over the last five fiscal years, FY2015 – FY2019, the Forest Service sold 16.3 MMBF on average, or approximately one third of the target. In FY2018, it sold just 9.2 MMBF. Last year, the Forest Service sold 5.4 MMBF, the second lowest fiscal year total in the last 30 years.[12]

If implementation of the proposed rule results in timber sales at the target levels specified in the 2016 forest plan, it would represent a significant increase from current practice. The Forest Service's claim that the proposed rule would not increase agency costs because it would not increase timber harvest levels is unfounded. **The Forest Service must develop a more comprehensive estimate of anticipated agency costs and losses from below-cost timber sales before any alternative is selected and a final rule is promulgated**.

The decrease in timber sales in recent years is due to low commercial interest. In FY2018, the Forest Service offered 23.6 MMBF of timber through three sales that did not receive a single bid.[13] The inability of the agency to find a purchaser for this timber after spending millions of dollars to prepare and analyze the three sales represents an enormous waste of taxpayer resources.

After devoting considerable resources preparing timber sales, the Forest Service is often compelled to subsidize sales because of statutory requirements enacted by Congress. In the Department of the Interior and Related Agencies Appropriations Act for FY1998, Congress stipulated that the Forest Service could not offer any timber sale in Region 10 (Alaska) including Western red cedar unless it used local sales values and manufacturing costs.[14] The provision has remained in various forms in the annual Interior appropriations act ever since. The FY2000 appropriations act mandated that no timber sale in Region 10 could be advertised if indicated rates were deficit as determined through a "transaction evidence appraisal system."[15] By the FY2003 act,[16] this had become the "residual value" appraisal system, as it is known today.

The residual value appraisal approach assigns value to timber by first calculating its Selling Value, then subtracting all expected production costs and a profit and risk margin. Production costs are the sum of all manufacturing, logging, log transporting, *and road costs*.[17] If the indicated advertised rate – the selling value minus the production costs and the 15 percent profit and risk margin – is negative, the Forest Service is prohibited from advertising the sale.[18] In recent years, many of the timber sales prepared by the Forest Service have had a deficit appraisal.[19]

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[10] 84 FR 5525, October 17, 2019.
[11] U.S. Forest Service, "Alaska Roadless Rulemaking: Regulatory Impact Assessment and Cost-Benefit Assessment." Page 31.
[12] U.S. Forest Service, "Forest Products Cut and Sold from the National Forests and Grasslands." Region 10. https://www.fs.fed.us/forestmanagement/products/cut-sold/index.shtml
[13] Alaska Roadless Rule DEIS, page 3-32.
[14] P.L. 105-83 §347
[15] P.L. 106-113, Div. B, Appendix C, §333
[16] P.L. 108-7 §318
[17] Forest Service Handbook, Alaska Region, Timber Appraisal Handbook, Chapter 10 – Residual Value Appraisals. Supplement 2409-22. December 11 2018.
[18] The calculated "Timber Property Value" – or the increase in timber value from processing - can be added to the calculation in certain circumstances to potentially eliminate the deficit.
[19] The Forest Service often notes it is hard to create timber sales that are economical in the Tongass, see the Roadless Rule DEIS, page 3-32

Instead of abandoning these projects, the Forest Service often attempts to make these sales appraise positive. It does this by waiting for timber prices to increase, thus increasing the Selling Value in the formula, or by reducing the would-be purchaser's production costs. The Forest Service reduces harvester costs primarily by building roads. For example, after failing to attract any bids for the 2008 Kuiu sale, the Forest Service spent more than $3 million constructing, reconstructing, and reconditioning 88 miles of roads in the sale area.[20] A revised Kuiu sale was subsequently re-offered in both 2016 and 2018 and still failed to attract a bid.

The timber sale process in the Tongass is fundamentally skewed to protect the interest and profits of logging companies, with little or no regard for the cost to taxpayers. This is why the Forest Service loses $30 million per year on Tongass timber sales. Repeal of the 2001 Roadless Rule would make the problem worse.

As the materials accompanying the proposed rule state, timber harvest in most roadless areas would require more road construction, on average.[21] To make timber sales more economical for logging companies to meet annual statutory requirements, the Forest Service will likely end up covering more roadbuilding costs.

In 2017, the Forest Service began developing alternatives for the Prince of Wales Landscape Level Analysis project, which ultimately provided for the sale of 656 MMBF over 15 years. In developing this project, the Forest Service considered one alternative that would have allowed the sale and harvest of timber in current roadless areas. Through a Freedom of Information Act request, TCS received one of the agency's initial cost analyses for the alternative. Even under the assumption that constructing a mile of new road would cost the same in a roadless area as in a roaded area, the Forest Service found that roadbuilding in roadless areas would be more than twice as expensive per board foot of timber.

We expect the same to be true of roadbuilding in all roadless areas. Because many of these costs would necessarily be covered by the Forest Service to make sales economical, the proposed rule would likely result in significantly greater financial losses to the U.S. Treasury and American taxpayers.

Road Costs and the Maintenance Backlog

The fiscal impact of increased timber sales in roadless areas becomes even more urgent when considered in the larger budget context. According to Forest Service, the agency faces an overall deferred maintenance backlog of more than $5.2 billion but has an annual budget of less than $450 million for all maintenance and infrastructure needs.[22]

Already, the Forest Service cannot adequately maintain the existing 370,000 miles of roads in the National Forest System. The deferred maintenance backlog for these roads is currently around $3.2 billion.[23] The deferred maintenance backlog for roads in Alaska alone is $68 million. New timber sales in roadless areas would increase the mileage of roads that must be maintained, further exacerbating Forest Service budget strain.

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[20] Complaint in the U.S. District Court for the District of Alaska. Case 1:18-cv-00005-HRH, May 16 2018. https://earthjustice.org/sites/default/files/files/Timber%20Sale%20Complaint.pdf

[21] Alaska Roadless Rule DEIS, page 3-144

[22] US Forest Service, "Reducing our deferred maintenance backlog," April 2019. https://www.fs.fed.us/inside-fs/leadership/reducing-our-deferred-maintenance-backlog

[23] Lenise Lago, Associate Chief, USDA-Forest Service, testimony before the Senate Committee on Energy & Natural Resources. June 18 2019. https://www.energy.senate.gov/public/index.cfm/files/serve?File_id=9D5D526C-2337-4002-9072-285BE733E072

The Forest Service states that adoption of Alternative 4 or 5 would lead to 17 and 19 percent increases to total road miles in the Tongass respectively over the next 100 years.[24] However, the Forest Service's does not present the total anticipated roadbuilding accompanying adoption of the preferred alternative. The Forest Service must publish such an estimate before proceeding with the rulemaking.

National Forest System road construction costs are frequently covered by the Forest Service, even though their primary intended use is to facilitate timber harvest. A Tongass roads analysis prepared for the Forest Service in January 2003, found that, "the availability of maintenance level 3, 4, and 5 roads (those open to passenger cars) in Southeast Alaska is sufficient to satisfy local demand for roaded recreation, subsistence, and community connectivity needs and demands in most districts."[25] Even the Forest Service acknowledges the demand for new roads in the Tongass is driven by timber harvest needs.[26] [27]

Adding more miles to the road system in National Forests without devoting funds to pay for their maintenance will only increase that backlog and taxpayer liabilities. Any assessment of allowing timber harvest in roadless areas, which would require significant new road construction, must account for the maintenance and liability costs associated with new roads.

Conclusion

At nearly 17 million acres, the Tongass National Forest in Southeast Alaska is the largest in the United States and is an important resource and natural place for the entire country. Tourism and fishing are the foundation of the region's economy, but money-losing timber sales and costly logging roads too often take priority in the Tongass.

Tongass roadless areas provide other economic benefits for fish and wildlife. Tourism and commercial fisheries, make up approximately 25% of regional employment and are both directly dependent upon the protected roadless areas of the Tongass.[28] In contrast, timber industry employment has fallen by 80% since the 1990s and currently represents less than one percent of regional employment.[29]

TCS believes that exempting the Tongass National Forest from the Roadless Rule would result in adverse economic and associated environmental impacts. As discussed above, Tongass timber sales return a few pennies on each dollar expended.

To protect the interests of taxpayers, Taxpayers for Common Sense urges the U.S. Forest Service to abandon its proposed repeal of the 2001 Roadless Rule. Repealing the roadless rule in the context of a deeply flawed timber sale program would continue heavily subsidized timber sales and lock in taxpayer losses at a time of exploding national debt.

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[24] DEIA, Appendix C, Table 3.4-6

[25] *Tongass National Forest Forest-Level Roads Analysis*, Prepared for Tongass National Forest Region 10 USDA Forest Service, January 2003.

[26] See the Final Environmental Impact Statement (FEIS) for the Prince of Wales Landscape Level Analysis Project, page 331; or, the Draft EIS (DEIS) for the Central Tongass Project, page 360.

[27] U.S. Forest Service, DEIS for the Rulemaking for Alaska Roadless Areas, page 3-142.

[28] Southeast Conference, "Southeast by the Numbers 2019," September 2019. http://www.seconference.org/sites/default/files/FINAL%20Southeast%20by%20the%20Numbers%202019.pdf

[29] Southeast Conference, "Southeast by the Numbers 2014," September 2014. http://www.seconference.org/sites/default/files/Southeast%20Alaska%20by%20the%20numbers%202014%20FINAL.pdf