

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT AND PERMITTING

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Harris D. Sherman
Under Secretary for Natural Resources and Environment
US Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Delivery via fspr@contentanalysisgroup.com

Dear Under Secretary Sherman:

The State of Alaska appreciates the opportunity to provide comments in advance of the preparation of a new Forest Service Planning Rule and accompanying Environmental Impact Statement. By all measures, developing a new planning rule will be challenging, especially given the history of widely divergent approaches and litigation. At this time, we support assessing realistic planning approaches that are responsive to both environmental and economic considerations. The authors have an opportunity to craft a new planning rule that provides sufficient general procedural guidance while leaving substantial flexibility to work out locally-tailored solutions.

With this letter, the State of Alaska formally requests to be designated as a Cooperating Agency for the Planning Rule Environmental Impact Statement process, in accordance with 40 CFR 1501.6. The State has a history of close cooperation with the forest Service, and can bring valuable expertise to the Planning Rule process. We have been actively involved with the planning and management of the Tongass National Forest, and we were a cooperating agency on the 2008 Tongass Land Management Plan Amendment. This relationship resulted in a sound plan for the Tongass, which will restore a viable economy to Southeast Alaska while protecting the other resources of this National Forest. Not only

“Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans.”

will Alaska be able to lend a unique perspective to the Planning Rule process, but we also stand to be greatly affected by its outcome.

The Federal Register Notice of Intent (NOI) on December 18, 2009 states the new Planning Rule “*must be responsive to the challenges of climate change; the need for forest restoration and conservation, watershed protection, and wildlife conservation; and the sustainable use of public lands to support vibrant communities.*” (Page 67167) This laudable, multifaceted goal will be difficult to achieve, especially in some national forests. We strongly recommend avoiding a one-size-fits-all approach that limits manager’s options. For example, Alaska’s national forests are comparatively healthy: wildlife and water quality are in generally good shape. The biggest challenge in Alaska, particularly on the Tongass National Forest, is meeting the goal of “*sustainable use of public lands to support vibrant communities.*” Other national forests will undoubtedly have different combinations of baseline conditions and needs.

The new Planning Rule must be consistent with the National Forest designation, as established by the Organic Act of 1897, and enhanced by the Multiple Use Sustained Yield Act of 1960, and must not be used to alter the statutory purposes of the National Forest System.

The Planning Rule should require compliance with the provisions of NFMA regarding Forest Plans. Forest Plans must include clear designations of suitable and unsuitable forest lands. Forest Plans must provide clear information on planned harvest schedules during the planning period. Failure to provide these types of information in revised Forest Plans is unhelpful to the public and violates the language and spirit of NFMA. The new Planning Rule must not be prescriptive—i.e., it should not be crafted in a way that results in predetermining the outcome of an NFMA planning process. The new rule should not deal with site specific issues; those issues should be reserved for Forest Plans and project level analyses.

The Planning Rule must recognize State authorities, including primary management responsibilities for fish and wildlife, and State permitting authorities.

The following comments cover several specific topics of interest during this scoping period.

Alaska’s Uniqueness

It is imperative that the new Forest Service Planning Rule take into consideration how the Tongass National Forest is connected to and affects all aspects of individual, community

and business activity in Southeast Alaska. These connections include the whole suite of Southeast Alaska's identity: tourism, commercial, sport, and subsistence fishing, timber products, hydro and biomass energy, local roads, and government, plus many others. This national forest is comprised of a series of islands not connected to the road system, restricting opportunities of local residents in the many inholdings and communities on these islands to find employment by driving somewhere else. The national forest lands are central to the existence and well-being of the area's communities, and any planning rule must be flexible enough to allow step-down plans to recognize and be supportive of local community needs that only the national forest can provide.

Vibrant, Local Communities

In Southeast Alaska, isolated rural communities, many of which were established during the heyday of logging in Alaska, continue to decline in population and face a multitude of challenges from much higher unemployment rates than the national average, to other associated problems. The Tongass National Forest is also home to many Alaska Native communities that have depended on these lands for their social, cultural, and economic well-being for generations. The January 2010 issue of the Alaska Economic Trends publication lists the unemployment rates for the following areas of Southeast Alaska:

Haines Borough – 12%
Prince of Wales – Outer Ketchikan Census area – 16.1%
Skagway – Hoonah - Angoon CA - 23.2%
Wrangell-Petersburg CA – 11.6%
Yakutat Borough – 11.7%

This publication projects that the logging and wood products manufacturing sector will lose additional jobs in 2010. As jobs disappear, people move away, further weakening the fabric of these small communities. School age student enrollment is dropping, forcing the Southeast Island School District Board to close two schools this year- at Whale Pass and Edna Bay. The Coffman Cove School is at risk of being closed due to low student enrollment; the state just built a new school at Coffman Cove at a cost of 6 million dollars.

The Tongass National Forest surrounds many of these local communities, highlighting the importance of the Planning Rule to enable regional forest planning to provide outcomes that support, create, or re-create local, vibrant communities. This national forest is situated to be the economic engine for these communities and it is important for the forest to once again be able to provide sustainable year-round jobs.

Balance

During this exercise to develop a new Forest Service Planning Rule, the USFS is encouraged to achieve a fair balance among the various uses occurring within forest system units. For example, by over emphasizing restoration, water quality, climate resilience and wildlife conservation at the expense of timber production, the resulting imbalance, much like that resulting from the past emphasis on managing the forest for timber production, will continue to lead to contested outcomes. While “balance” may be hard to define and achieve, it is an important criteria to explicitly strive for when designing new planning regulations.

Restoration and Resiliency

The word “*restore*” typically implies returning to a previous static or original state. In the context of changing conditions (climate change, invasive species, and other external factors), the concept of restoration may not be the best terminology. The NOI also uses the term “*resiliency*,” which would also support forest health while better recognizing the dynamic nature of both changing conditions and finding new ways to respond.

Planning for the forest should be done using Integrated Resource Management Plans, where a watershed or watersheds are planned by considering all management needs, not just those of timber, wildlife conservation or restoration. Nature is dynamic and restoration is not always practical as a goal. It is important to manage the forest holistically, in a balanced manner, providing for a wide-range of public and timber-based values as the outcome from forest planning. Restoration jobs may not be sustainable, especially where there is finite restoration work that needs to be done.

Regional-based Planning

The Planning Rule needs to be flexible enough to accommodate the regional differences in forest system units across the nation. For example, fire is not a major issue in Southeast Alaska. One approach is to support the development of regional “best management practices,” and ensure the necessary flexibility to address local issues. The Planning Rule should define Desired Future Conditions for the national forest on a regional basis and then let each region determine how they will reach those conditions.

Green Jobs

Timber harvesting is a green job when done on a sustainable basis; trees are a renewable resource. Again balance is the key; no resource need should overpower another to the point of causing harm to a resource.

Collaborative Efforts

The new Planning Rule should describe and support a range of collaborative approaches that each national forest unit could choose from in order to meet its unique planning needs. In Alaska, the Tongass Futures Roundtable provides an example of one way to promote creative solutions and improved understanding among diverse perspectives on forest management. Regional differences will not be well-served by trying to narrowly define a single planning approach. Flexibility, resilience, and adaptive management are sound principles to incorporate into the crafting of the new Planning Rule.

NEPA Considerations

It is unfortunate that the National Environmental Policy Act requires multiple, repetitive application of the EIS process at the Planning Rule, forest management plan, and individual project levels. While this may be necessary, it is important to keep this in mind while crafting the new Planning Rule. Strive to reduce the generation of any “unnecessary” expectations or new requirements in the Planning Rule that are duplicative of the existing multiple-layered EIS requirements.

Climate Change

The NOI notes “Plans will need to anticipate climate change-related uncertainty and be adaptive to new science and knowledge...” (Page 67167, emphasis added) We appreciate recognition of uncertainty in the context of climate change, and the related reference to providing “flexibility to...adjust plan objectives and requirements.” Care must be taken to avoid over-thinking strategies or imposing standards or guidelines that may not fit the needs of national forests in the coming years. Moreover, the “climate change” language in the proposed rulemaking seems likely to push the Planning Rule in the direction of prescription; this should be avoided, especially given the degree of flux in the ongoing assessment of data relating to climate change.

As recent controversy over the International Panel on Climate Change (IPCC) process and findings has shown, it is critical that any scientific process and conclusions relied upon in the EIS process as evidence of climate change be transparent and objective. This should include a true peer review process such as is followed by credible scientific journals. Anonymous reviewers and editors should determine whether edits or corrections must be made, not the authors as was the case with the IPCC study. In addition, all evidence, data, and comments underlying research claims need to be gathered, published or accessible to the public, and preserved in several locations under the custody of the agency. This should be done well before final conclusions are made and would avoid concerns with accessibility to such information by the public and destruction of data. Similarly, dissenting comments and opinions from other scientists should be treated the same way. Finally, when selecting scientists to provide opinions, scientists should not be selected with conflicts of interest and a policy should be followed that allows for balance of different scientific views. Panels and groups should not consist only of scientists with a particular point of view

Relationship to Adjacent Non-Federal Lands

While it is appropriate to consider the role of forest lands in the context of a larger ecosystem, watershed or landscape, it would not be appropriate or realistic for the Forest Service to attempt to fully compensate or mitigate for environmental impacts on lands outside the national forest system. Similarly, while extending welcome opportunities to collaborate with adjacent landowners on issues of mutual interest, we strongly support the caveat that the Forest Service understands it will “...*respect private rights and multiple ownerships. The land management planning process provides direction for NFS lands only.*” (Page 67169)

Public Involvement

Previous planning guidance has struggled with defining the appropriate level of public involvement at both the larger scale planning and decision making stages and at the detailed, day-to-day decision levels. Public involvement needs to be tailored to provide meaningful input without unnecessarily restricting local managers from exercising a measured amount of discretion. The Planning Rule should be clear about what type(s) of public involvement will be sought and at what stages. In practice, we encourage the Planning Rule to develop methods that encourage issue resolution well before the appeal

stage. Administrative appeals have, unfortunately, become so common that they are frequently viewed by managers as an expected part of the public involvement process.

Committee of Scientists

We have concerns that using a Committee of Scientists could overshadow and hinder the management flexibility that is envisioned in both MUSYA and NFMA. Clearly there are science issues that should be considered in writing Forest Plans and in developing NEPA documents for project level analysis. However, in most cases, agency expertise, used in conjunction with state agencies, should be more than capable of addressing science issues. An appropriate way to deal with the Committee of Scientists issue would be to include a provision in the Planning Rule that the Regional Forester has the discretion to convene a Committee of Scientists to assist in the Forest Plan process, should he or she consider it necessary; this is consistent with NFMA.

In addition, our comments in the “Climate Change” section above regarding the IPCC process are relevant here.

Alaska National Interest Lands Conservation Act

The Alaska National Interest Lands Conservation Act of 1980 (ANILCA) provides unique Congressional direction for national forests in Alaska. ANILCA directly drives or influences a number of issues, such as subsistence and wilderness. Consistent with numerous national laws and regulations affecting Alaska since 1980, we strongly recommend a general clause clarifying that in case of conflict between the national planning rule and ANILCA, the provisions of ANILCA will prevail. Since administrative regulations cannot supersede Congressional direction, such a provision amounts to an important reminder for both managers and the public.

Wilderness and Roadless Areas

Roadless reviews should not be mandates as part of the Planning Rule. Consideration of roadless condition should be given in light of the requirements of the Organic Act and the MUSYA – which may, in some cases, preclude sweeping preservation policies; therefore the Planning Rule should avoid prescription in this matter.

There is no need to conduct additional wilderness or roadless area reviews on national forest lands in Alaska. Between ANILCA and the subsequent Tongass Timber Reform

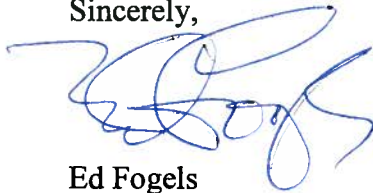
Act of 1990, these issues should be considered settled. National forest lands in Alaska already host 19 designated wilderness areas and numerous additional areas managed to preserve primitive, roadless attributes. If the study of wilderness or roadless areas is provided for in the national Planning Rule, we strongly urge a specific Alaska exemption from any such provision. If the roadless rule is applied to the Tongass National Forest, the present Forest Plan's annual cut drops dramatically from 267 mmbf to about 50 mmbf.

Appeals and Litigation

One goal of the Planning Rule should be to reduce the likelihood of forest plans being subjected to endless and very costly litigation. A rule that considers and adheres to the full range of Federal laws that bear on NFS management as well as relevant Federal court rulings, will stand a better chance of surviving legal challenge. A rule that simplifies planning procedure and provides for a clear, simple and brief appeals process will reduce costs and frustration on the part of both the agency and the public

We appreciate the opportunity to comment on this important issue.

Sincerely,



Ed Fogels
Director

Cc: The Honorable Lisa Murkowski, United States Senate
The Honorable Mark Begich, United States Senate
The Honorable Don Young, United States Congress
Robert Bonnie, Senior Advisor, Office of the Secretary, USDA
Jay Jensen, Deputy Under Secretary, USDA
Tom Tidwell, Chief, US Forest Service
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