



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Natural Resources**  
OFFICE OF PROJECT MANAGEMENT AND PERMITTING

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September 13, 2024

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Submitted by email to [TongassPlanRevision@usda.gov](mailto:TongassPlanRevision@usda.gov)

Re: Wilderness Inventory for the Tongass National Forest

Dear Ms. Matthews,

The State of Alaska (State) reviewed the proposed wilderness inventory websites and scoping resources shared for public review as part of the Tongass National Forest (Tongass) plan revision process. The Forest Service (USFS) is reviewing lands within the Tongass boundaries to potentially recommend for designation by Congress as Wilderness areas.

As a resource manager and adjacent landowner in several areas within the Tongass, the State's interests in land uses such as timber harvesting, recreation, and traditional use access could be negatively impacted by the designation of additional lands as Wilderness, which are considered Conservation System Units (CSUs) under the Alaska National Interest Lands Conservation Act (ANILCA). Staff from the Departments of Natural Resources (DNR) and Fish and Game (ADF&G) contributed to the information below and are available for follow-up discussion upon request.

**Inconsistency with Unique ANILCA Management Guidelines**

In ANILCA, Congress struck a balance between conservation purposes and opportunities for economic and social uses of public lands. ANILCA 101(d)<sup>1</sup>, specifically notes that the need for future CSUs in Alaska has been obviated by the ANILCA withdrawals, including the designation of Wilderness Areas.

ANILCA expanded the Tongass (Sec 501) and established two National Forest Monuments (Sec 503) and fourteen Wilderness areas in the Tongass National Forest (Sec 703).

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<sup>1</sup> This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, **has been obviated thereby.** [emphasis added]

Wilderness areas are included in the ANILCA Section 102(4)<sup>2</sup> definition of a CSU. ANILCA contains specific language regarding future studies and the establishment of additional CSUs in Alaska. The directives relevant to Tongass National Forest can be found in Sec 708(b)(4) and 1326(b):

ANILCA 708(b)(4)

Unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

ANILCA Section 1326 (b)

No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

The State believes that the wilderness inventory process being conducted by the USFS for the purpose of recommending further CSU on the Tongass is a direct violation of these and other ANILCA prohibitions<sup>3</sup> of such agency conduct. Congress also made clear, in ANILCA Section 1320, that in the absence of congressional action related to any such recommendation, such lands shall be managed in accordance with applicable land use plans and applicable provisions of law.

Project websites such as

<https://www.fs.usda.gov/detail/tongass/landmanagement/planning/?cid=FSEPRD1151243> fail to recognize the unique management guidance Congress specified in ANILCA regarding National Forest management in Alaska, as does the referenced Chapter 70 of the Forest Service Land Management Planning Handbook. It is important to note that an agency policy or handbook directed at national level forest planning cannot override the specific congressional directives in ANILCA. In the recent overturning of the *Chevron* doctrine in *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024), the U.S. Supreme Court very clearly stated that federal agencies no longer enjoy the deference they once held when applying vague or conflicting statutory language, and the lessons from that ruling are especially applicable here where the statutory prohibition against the USFS's conduct is so explicit.

### Appearance of Agency Capture

The Tongass Forest Plan revision's wilderness inventory process, while ostensibly seeking diverse input, raises concerns about the potential for agency capture by the Society for Wilderness Stewardship (Society). The prominent use of the Society's staff and Society staff-produced video content, labeled with USDA and FS branding, on the official USFS project website suggests undue influence. The absence of a Federal Advisory Committee Act (FACA)

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<sup>2</sup> ANILCA 102(4) **The term "conservation system unit" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter. [emphasis added]**

<sup>3</sup> ANILCA 1320 authorized the Bureau of Land Management to, during land planning processes under the Federal Land Policy Management Act, identify areas as suitable for wilderness.

committee further undermines public trust in the transparency and impartiality of the decision-making process. These factors create a perception that the USFS's wilderness inventory and recommendation decisions may be pre-determined to favor the interests of this special interest group. This is particularly important since the USFS manages recommended wilderness lands to protect the characteristics that provide the basis for the wilderness designation as de facto wilderness.<sup>4</sup>

### **Sufficient Tongass Lands Already Have Wilderness Designation**

Approximately one third of the Tongass is designated wilderness, with 19 designated wilderness areas encompassing roughly 5.7 million acres<sup>5</sup>. These areas were established under ANILCA or later expansions by Congress under the Tongass Timber Reform Act (TTRA), which additionally allocated more than 700,000 acres to 12 legislated Land Use Designation (LUD) II areas, areas designed to retain their roadless state and wildland character.<sup>6</sup> Congressional action under the 2015 Defense Authorization ACT established 8 additional LUD II areas within the Tongass. Between wilderness designation and the establishment and expansion of LUD II areas roughly 6.8 million acres of the Tongass (roughly 39%) are protected for wilderness and roadless character.

These lands are an ample portion of the Tongass already designated as wilderness. To achieve the balance Congress sought for the Tongass in ANILCA and later actions, its remaining lands should remain available for multiple uses, consistent with the Multiple-Use Sustained-Yield Act of 1960,<sup>7</sup> and consistent with the timber harvest obligations outlined in the TTRA.<sup>8</sup> To comply with the balance Congress struck between conservation and more intensive use, it is important the USFS refrain from removing further large portions of land from the USFS's multiple use inventory.

Additional Wilderness areas could block or greatly complicate access to State and private lands adjacent to those areas as roads or activities allowed on less-restricted lands become prohibited by Wilderness management guidelines. Reaching those adjacent non-federal lands is critical to the socioeconomic success of Southeastern Alaska. Just as is true for wildlife, connectivity is necessary for communities, such as by roads or utilities, which could be blocked by Wilderness management. Since the USFS has reduced the size and scale of federal timber sales, the State is carrying a greater burden of supplying timber resources to the local forestry economies. Additional access restrictions in new Wilderness areas could negatively impact both State timber sales and the economic opportunities offered by timber harvest in Southeast Alaska.

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<sup>4</sup> FSH 1909.12, Chapter 70 Wilderness, Section 74.1 – Management of Recommended Areas

<sup>5</sup> Tongass Resource Management website,

<https://www.fs.usda.gov/resources/tongass/landmanagement/resourcemanagement> accessed 8/26/2024

<sup>6</sup> ANILCA and Tongass Inventoried Roadless Areas, Issue Paper, April 2011, USFS Alaska Region, accessed at [ax2921ar.aw \(usda.gov\)](https://www.fs.usda.gov/eng/regions/alaska/ax2921ar.aw) 8/28/24

<sup>7</sup> PL 86-517, as amended

<sup>8</sup> PL 101-626, which amended ANILCA Title VII, directed the Forest Service to, “consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.”

We are also concerned that Wilderness, if applied too extensively, will tie the hands of the USFS itself in unforeseen ways. Changes in public use patterns might demand more active recreation management that would be obstructed by wilderness designation. For example, a future district ranger may determine it is better to manage increased visitation by developing facilities (e.g., campgrounds or improved nature trails) in discreet areas to reduce the pressure on adjacent areas. This option would be precluded, however, in designated Wilderness. When Wilderness is limited to select portions of the forest, this lost flexibility is less of a "cost;" however, when the majority of the forest is proposed for wilderness, the cost is more significant. Given how much of the Tongass National Forest is already designated as Wilderness or LUD II areas or protected by other restrictions such as the Roadless Rule, the impacts of designating additional lands as Wilderness would be unduly restrictive.

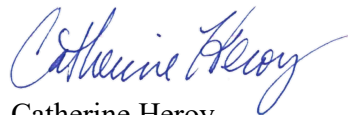
### **Conclusion**

The State does not support recommending any additional lands to Congress for designation as wilderness, for the reasons above. This inventory is absent Congressional direction, and a systematic inventory has already been completed and documented; additional wilderness studies are inconsistent with ANILCA. The USFS should make clear to the public that the role of the Society for Wilderness Stewardship is as a subject matter expert only, as well as reiterate that outcomes of the wilderness inventory are not predetermined. The State is not supportive of additional wilderness designations or administrative management of lands identified as having wilderness characteristics as de facto within the Tongass, especially given the extensive acreage already designated in Wilderness areas.

Inventorying and designating additional lands as wilderness would also impact State and private lands adjacent to USFS lands, further harming economic opportunities. We believe, through a combination of statutory and management plan protections, the USFS can effectively manage the Tongass for environmental, social, and economic outputs that contribute to the overall well-being of Southeast Alaska without additional wilderness designations.

Thank you for the opportunity to comment. Please contact me at (907) 269-0880 or by email at [Catherine.heroy@alaska.gov](mailto:Catherine.heroy@alaska.gov) to coordinate any follow-up discussions.

Sincerely,



Catherine Heroy  
Federal Program Manager