

**ORGANIZED VILLAGE OF KASAAN, ORGANIZED VILLAGE OF KAKE, KLAWOCK COOPERATIVE ASSOCIATION,
HOONAH INDIAN ASSOCIATION, KETCHIKAN INDIAN COMMUNITY, SKAGWAY TRADITIONAL COUNCIL,
ORGANIZED VILLAGE OF SAXMAN, YAKUTAT TLINGIT TRIBE , CENTRAL COUNCIL TLINGIT AND HAIDA
INDIAN TRIBES OF ALASKA**

**PETITION FOR USDA RULEMAKING TO CREATE A TRADITIONAL HOMELANDS CONSERVATION
RULE FOR THE LONG-TERM MANAGEMENT AND PROTECTION OF TRADITIONAL AND CUSTOMARY USE
AREAS IN THE TONGASS NATIONAL FOREST**

EXECUTIVE SUMMARY

One of our sovereign Tribes' highest priorities is to protect the traditional and customary hunting, fishing, and gathering areas within our traditional tribal territory. Our customary and traditional uses cannot be protected when, ignoring our input and sovereign interests, road construction, logging, mining, mineral leasing, and other large-scale industrial development, which has already devastated large expanses of the forest, is permitted to farther impact the Tongass National Forest ("Tongass"). Our history and longstanding traditional and customary uses of the Tongass are well documented. Our traditional tribal territories deserve accurate identification, protection, and the implementation of a collaborative management approach that integrates the knowledge and expertise of our tribal governments and tribal citizens into the protection and utilization of our resources.

Sovereign Tribal governments in southeast Alaska have long sought to work cooperatively with the United States Department of Agriculture (USDA) in decisions that affect the traditional lands of Alaska Native people, but USDA has consistently ignored Tribal input. As an example, USDA is proposing to fully exempt the Tongass National Forest from the 2001 Roadless Area Conservation Rule ("2001 Roadless Rule"), which currently protects many of Southeast Alaskan Tribes' traditional and customary use areas from roadbuilding and industrial-scale clearcutting. During the Alaska Roadless Rulemaking process over the past two years, our Tribes have engaged in government-to-government consultations, as well as some of us participating as 'cooperating agencies' in the rulemaking process, in order to give input into the process and advocate for our traditional and customary uses of the land. We entered into these processes with good faith and collaborative effort; however, our comments, input, and traditional knowledge have been repeatedly disregarded and ignored. The failure to include our input or address our concerns in the Alaska Roadless Rulemaking process amounts to the collective disenfranchisement of our sovereign Tribal governments.

Thus, the undersigned tribal governments hereby petition the United States Department of Agriculture to commence a rulemaking process, in collaboration with the Tribes of Southeast Alaska, to create a Traditional Homelands Conservation Rule that protects the traditional and customary uses and areas of the Tlingit, Haida, and Tsimshian peoples in the Tongass National Forest. The requested rulemaking would be a new rulemaking, independent from and whatever the outcome of the ongoing Alaska Roadless Rulemaking process. As part of this rulemaking process, we request the development of a methodology to identify sites of critical importance to our customary use, and the implementation of forest-wide conservation measures and management to protect these uses. To address our concerns about the inadequate consultation process we request that, as part of this new rulemaking process, the U.S. Forest Service ("USFS") engage in a new and more robust and legitimate government-to-government consultation process with the Tribes on the Tongass National Forest under the principle of "mutual concurrence" to identify traditional and customary use areas and design forest-wide conservation measures to protect them. We also request the expanded utilization of existing authorities and cooperative

agreements by the USFS and the USDA to accomplish the above goals in partnership with the sovereign tribal governments of Southeast Alaska.

I. CONTINUED ATTACKS ON CURRENT LAND PROTECTIONS AND THE TRADITIONAL AND CUSTOMARY USES OF ALASKA NATIVE PEOPLES REQUIRE THE ISSUANCE OF A NEW RULE TO PROTECT THE CULTURAL SURVIVAL OF TRIBES IN SOUTHEAST ALASKA

The Central Council of Tlingit and Haida Indian Tribes of Alaska declares as our peoples' inherent right that our tribal government, "Protect, preserve and enhance Tlingit 'Haa Aani' and Haida 'ítit' tlagáay', our way of life, its ecosystems and resources, including the right to clean water and access to native foods and traditional practices through our inherent rights to traditional and customary hunting, fishing and gathering."¹ One of our sovereign Tribes' highest priorities is to protect the customary and traditional hunting, fishing, and gathering areas and uses within Tribal traditional territory. Our traditional lands comprise nearly every part of what is now called the Tongass National Forest, including many islands as well as portions of the mainland. Our customary and traditional uses cannot be protected when road construction, logging, mining, and other large-scale industrial development, which has already devastated large expanses of the forest, is permitted to spread even farther into new and previously unimpacted corners of the Tongass. Accordingly, indigenous communities in Southeast Alaska have worked for decades to prevent the expansion of large-scale, industrial clearcutting and mining on the Tongass National Forest due to the harm caused to our customary and traditional uses of these lands and waters, and the lack of socio-economic benefit that these activities have provided to our local peoples.

We, the undersigned Tribes of Southeast Alaska, have repeatedly spoken of our concern with the USDA's land management policies. For example, we have repeatedly raised our voices in opposition to USDA's decision to accept the State of Alaska's petition for a full exemption of the Tongass National Forest from the 2001 Roadless Area Conservation Rule ("2001 Roadless Rule"). The USDA has entered into a rulemaking process with the State of Alaska, and several of the undersigned Tribes are participating in this process as cooperating agencies, in order to craft an Alaska-specific Roadless Rule. The proposed alternative for an Alaska-specific Roadless Rule is completely contrary to the consultation, letters, and rulemaking comments and input provided by the undersigned sovereign Tribes of Southeast Alaska. It would open significant portions of our traditional homelands to industrial-scale logging and mining, which would have disastrous implications for the sustainability of our natural resources and our long-term socio-economic and cultural prosperity. Such a decision is also in direct contradiction to the stated wishes of the people that live on these lands².

All Tribes in Southeast Alaska are federally recognized, sovereign governments. Proposed action to lift the 2001 Roadless Rule will affect all Southeast Tribes' traditional territory and traditional and customary uses of said territory. Thus, as with all management on the Tongass, our perspectives should significantly inform this decision-making process. Instead, throughout this process our voices have been disregarded, disrespected, undervalued, and ignored. The USDA's ongoing efforts to exempt the Tongass National Forest from the 2001 Roadless Rule, despite the Tribes' united and staunch opposition to a full exemption alternative, is yet another example of the federal government's failure to fulfill their fiduciary trust responsibility to Alaska Native Tribes. The USFS has imposed short, arbitrary deadlines for critical comment periods throughout the Alaska Roadless Rulemaking process in order to satisfy an expedited,

¹ Central Council of the Tlingit and Haida Indian Tribes of Alaska Council President Richard Peterson. <https://www.adn.com/opinions/2019/10/20/respect-alaska-tribes-rights-on-the-tongass-question/>

² See all tribal resolutions and community resolutions.

predetermined timeline.³ These deadlines have made it impossible for us to gather insights and perspectives from our respective Tribal Councils as to the far-reaching implications of removing 2001 Roadless Rule protections. In addition, the USFS declined to address the concerns raised by many of us on the Preliminary Draft Environmental Impact Statement (“PDEIS”), and the agency refused to include updated community use areas to reflect our traditional territories and customary uses accurately. The USFS also refused to consider alternatives that provided Tribes with increased authority to manage the activities that occur in inventoried roadless areas within a Tribe’s traditional territory. Furthermore, the refusal of the USFS to release a Subsistence 810 determination under the Alaska National Interest Land Conservation Act (“ANILCA”) in a timely fashion, and reluctance at a national level to hold subsistence hearings as a part of this rulemaking process, are evidence of complete disregard of our longstanding customary and traditional uses and stewardship of these lands.⁴

The disenfranchisement of tribal governments during the Alaska Roadless Rulemaking process and the disregard of our concerns regarding the protection of our traditional and customary uses on our traditional tribal territories is only the latest example in a long history of ignoring the concerns of Tribes and demonstrates that the USDA is not invested in protecting the cultural survival of our peoples. We must fight for the protection of these lands and waters to honor the legacy of our ancestors, and to provide for the livelihoods of our current and future generations. Despite engaging in consultation after consultation, writing letter after letter, participating in multiple planning processes and advisory committees, our voices have not been listened to. **All other avenues to protect our homelands have been exhausted, to little avail. The failure of the federal government to redress our grievances in a substantive manner is rationale for this petition, through which we are exercising our First Amendment rights.**⁵ Thus, we, the undersigned Tribes of Southeast Alaska, pursuant to the Administrative Procedures Act, 5 U.S.C. § 553(e) and our inherent power as sovereigns, hereby petition the U.S. Department of Agriculture to promulgate a new Traditional Homelands Conservation Rule on the Tongass National Forest to identify, protect, and develop a management structure for the protection of traditional and customary use areas on the Tongass National Forest that have supported Alaska Native peoples since time immemorial. To address our concerns about the inadequate consultation process we request that, as part of this new rulemaking process, the USFS should engage in a robust and legitimate government-to-government consultation process with the Tribes on the Tongass National Forest under the principle of “mutual concurrence” to identify traditional and customary use areas and design forest-wide conservation measures to protect them in all USDA decisions involving the Tongass. “Mutual Concurrence” as defined in the Forest Service Manual (FSM), shall apply to all types and modes of future USFS consultations: “consultation only occurs when the office or Agency and tribal officials mutually agree that consultation is taking place.”⁶ We also request the expanded utilization of existing authorities and cooperative agreements by the USFS and the USDA to accomplish the above goals in partnership with the sovereign tribal governments of Southeast Alaska. The requested rulemaking would be separate and independent of any decision on the ongoing Alaska Roadless Rulemaking. We ask the U.S. Department of Agriculture to keep the Roadless Rule in place,

³ Contrast, for example, the timeframes used to develop the Idaho and Colorado Roadless Rules, which despite having less inventoried roadless acres, took the USFS years and not months to develop and finalize. See 73 Fed. Reg. 61,458 (Oct. 16, 2008) (Idaho Roadless Rule, petition in 2006, rule in 2008) and 77 Fed. Reg. 39576 (July 3, 2012) (Colorado Roadless Rule, petition in 2006, rule in 2012).

⁴ Southeast Subsistence Regional Advisory Committee Letter to Secretary Perdue (appendix)

⁵ “Congress shall make no law... abridging... the right of the people... to petition the Government for a redress of grievances.” U.S. Const. Amend. I. The right to “petition for a redress of grievances [is] among the most precious of the liberties safeguarded by the Bill of Rights.” United Mine Workers of Am. Dist. 12 v. Ill. State Bar Ass’n, 389 U.S. 217, 222 (1967).

⁶ See FSH 1509.13, Chapter 10: FSM 1563.03(3)(e)

as we have requested in numerous comments and communications with the agency and initiate a separate rulemaking process relating to traditional and customary use areas.

II. LONGSTANDING TRADITIONAL AND CUSTOMARY USE OF THE TONGASS NATIONAL FOREST MERITS ACCURATE IDENTIFICATION, PROTECTION, AND LONG-TERM MANAGEMENT OF CUSTOMARY AND TRADITIONAL USE AREAS

The land and the first peoples of Alaska have been connected since time immemorial. The ocean, rivers and tributary streams, forests, and mountains all support a unique web of life that many generations of Alaska Native people have thrived upon. Tribes' historical use of what is now called the Tongass National Forest for social, economic, cultural, and environmental prosperity is long documented and passed down for millennia through oral traditions. Our origin stories are derived from these lands. Our ancestors are buried here. Our songs and dances are created here. Our languages have always been spoken here. Our communities were often established in regards to proximity and access to salmon, berries, wild game, and productive watersheds with the trees needed to build longhouses, fish camps, and smokehouses. These resources are the basis for generations of art, songs, and storytelling. They have always provided the basis of the traditional diet and economy, and they are valued as part of the community itself. Our health and well-being, identity and worldview are intricately connected with the landscape and natural processes of our homelands.

The maintenance of healthy watershed condition is critical for the lives and livelihoods of the local population, and thus has always been at the forefront of Alaska Native concerns and management prescriptions. Despite our extensive history and traditional use of the area, the U.S Forest Service has never respected our traditional use boundaries that have been described in detail since 1946. Our smokehouses and fish camps were burned by the U.S. Forest Service as areas throughout Southeast Alaska have been designated as "Wilderness" and "monuments". Our traditional villages were "consolidated" by the U.S. government after pandemics were released amongst our people and brought into our communities.

The U.S. Forest Service has also repeatedly failed to incorporate Tribes' maps, descriptions of our traditional use areas, and explanation of impacts to said areas as a result of the proposed action into planning processes. This results in an undervaluing and minimization of Tribal traditional use areas and resource consumption patterns, a violation of the National Environmental Policy Act 40 C.F.R. § 1501.6⁷, as well as a violation of the Tribal Consultation directives provided by Executive Order 13175.⁸ Several of the Tribes that are party to this petition have submitted their own maps of their traditional territories and requested that these maps are incorporated in the Alaska Roadless Rule Draft Environmental Impact Statement. Many of the lands that our tribal governments have identified as part of our traditional territories, which are heavily used for our subsistence way of life and our culture, do not contain significant protections other than those provided by the 2001 Roadless Rule. The proposal by the USFS to remove the 2001 Roadless Rule and leave our traditional territories without important protections is a violation of their fiduciary trust responsibilities to protect our cultural resources and to act in the best interest of Alaska Natives. Our way of life, our dependence on our land and waters and the natural resources they provide us, practically ensures that the removal of roadless protections will disproportionately impact our tribal citizens and our ability to practice our culture and provide for ourselves. Our experience with the Alaska Roadless

⁷ Tribal CA Letter to SEC. Perdue October 2019 (Oct. 22, 2019), available at http://www.fs.usda.gov/nfs/11558/www/nepa/109834_FSPLT3_5136565.pdf (citing 40 C.F.R. § 1501.6).

⁸ Executive Order 13175 of November 6, 2000: "Consultation and Coordination With Indian Tribal Governments" <https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments>

Rulemaking process shows the importance of a rule to provide for the identification and greater Tribal involvement in the management of Traditional Homelands. Thus, we are compelled to demand a new, independent rulemaking process to correctly identify the areas that contain these critical traditional and customary use values, and design a management scheme that adequately protects our customary and traditional uses of natural resources for the current generation and future ones. This management paradigm should seek to integrate our Tribes and tribal citizens into natural resource stewardship opportunities and employment as a way of enhancing the socio-economic benefits that this rulemaking could have for communities on the Tongass National Forest.

III. DEVELOP A PROCESS FOR THE IDENTIFICATION OF AREAS THAT CONTAIN TRADITIONAL AND CUSTOMARY USE VALUES THROUGH A NEW APPROACH TO CONSULTATION

The characteristics found throughout the Tongass National Forest are unique in both terrestrial and cultural terms and are thus deserving of protection and tribally-led and informed management. This globally significant, highly intact tract of coastal temperate rainforest supports thriving ecosystems, that provide food security, culture, spiritual, and socio-economic values to the communities that live among it. The diversity of communities, resources, and ecosystems present in Southeast Alaska make it an ideal location for landscape scale, community forest approaches to watershed planning. Employing a community forest approach requires creating a new model of consultation with the Tribes of Southeast Alaska that is based on “mutual concurrence” and incorporation of information.

Government-to-government tribal consultation policies require that federally recognized Tribes be consulted early in the decision-making process for any policy that will significantly or uniquely affect Tribes; however, the recommendations made by Tribal Governments through these processes are only advisory, and the government-to-government discussions are non-binding. Thus, Tribal Governments do not actually have the rights to manage and protect traditional and customary uses on their traditional homelands. This has resulted in a one-way system of communication in which the federal government engages in ‘consultation’ as a way to issue orders and give updates to the Tribes about what *will* happen in decision-making processes, while ignoring the recommendations that the Tribes provide. This consultation structure is the product of an unjust system in which Native culture is not respected, and Native people are not given a voice in the decision-making processes that affect how we practice our traditions and culture.

Our Tribes must be reinstated as the stewards of these lands and rivers because land management decisions directly affect our livelihoods and continued survival as a people. Endowing decision-making power to the local communities that rely on the resources is one manner of ensuring their continued prosperity. **Therefore, our Tribal governments request a new rulemaking for consultation processes to ensure culturally competent and meaningful consultation with accessible meetings that take place in local communities on a regular schedule, and mutually-agreed upon measurable processes for engaging in these consultations.** Our tribal governments must have a say in the final decisions that affect our traditional and customary uses of the land. Currently, in-person government-to-government consultation happen in urban areas, preventing decision-makers from experiencing the communities that their decisions will ultimately affect.

Our traditional Tribal territories are documented in Goldschmit and Haas’ book *Haa aani / Our Land: Tlingit and Haida Land Rights and Use (1998)*, and these maps are attached in the appendices below. However, with technological advances in marine craft and weaponry, we can now venture further and cover more area to fulfill our subsistence needs, without overfishing and overhunting other areas. This expansion of the area we use to fulfill our subsistence rights and traditional uses necessitates that the U.S.

Forest Service must work with the tribal governments of Southeast Alaska to develop a process for the identification of these areas that contain traditional and subsistence values. This identification process must include a means for identifying new traditional use areas.

Many of the Tribes in Southeast Alaska have already identified and catalogued traditional use areas and territories, which contain traditional, customary, and subsistence use values as described by the presence of the following characteristics. The areas identified by Tribal governments as containing these characteristics must be managed with respect to the sovereignty of the local Tribal government, which should maintain decision-making authority in regards to proposals that would affect the integrity of the land and the natural resources. The undersigned Tribes request that the U.S. Forest Service engage in the co-creation of a process for the identification of areas that contain traditional and customary use values with the Tribes of Southeast Alaska. We propose the following characteristics as preliminary standards for the area identification process. The Traditional Homelands Conservation Rule should apply to and provide protections for the critical areas that contain these characteristics. Furthermore, the authorities detailed later in this petition should be employed for the management of these areas.

Characteristics of Areas that Contain Traditional and Customary Use Values

- A. Hunting, Fishing, Gathering Values: areas that have traditionally provided crucial hunting, fishing, and gathering opportunities for Tribal peoples over thousands of years. Tribes have already identified the most important subsistence priority locations that are directly within their Community Use Areas, and have proceeded to identify other critical locations as transportation capacity has expanded.
- B. Old growth red cedar trees with characteristics for cultural use, utilization by native carvers, weavers, artisans, and utilization by Tribes, clans, and tribal citizens for cultural buildings and restoration purposes
- C. Cultural and historic sites, including ancient villages, fish camps, burial sites, sacred sites, historic travel and trade routes.
- D. Important stands of old growth forests for carbon sequestration to mitigate climate change impacts on traditional and subsistence resource use and dependence
- E. Important salmon watersheds that support traditional and customary salmon harvest, commercial harvest, and recreational uses
- F. Important stands of forests, valleys, mountains, or rivers that have a cultural and/or spiritual value and protection of these areas to reflect their cultural and social importance

IV. DEVELOP AND IMPLEMENT APPROPRIATE FOREST-WIDE CONSERVATION MEASURES AND MANAGEMENT DIRECTION TO PROTECT THE UNIQUE TRADITIONAL AND CUSTOMARY VALUES OF THE TONGASS, ITS PEOPLE, AND ITS FISH AND WILDLIFE

The Forest Service Manual (FSM) also emphasizes that “consultation alone is not sufficient,” and “[i]n addition to consultation, coordination and collaboration together lead to information exchange, mutual understanding, informed decision-making, and mutual benefit.”⁹ A new cooperative governing framework rooted in these principles and formalized through new rulemaking is necessary in order to protect the traditional values and uses of the Tongass National Forest and to honor the agency’s trust obligations and consultation duties to the Alaska Native Tribes who have inhabited Southeast Alaska since time immemorial. We request that the USFS work cooperatively with our Tribal governments to protect, enhance, and restore the physical and biological resources of the Tongass, as well as social, economic, and cultural values on the areas identified through the collaborative process detailed above. This management

⁹ Forest Service Manual 1563.

direction should incorporate forest-wide conservation measures with the intention of protecting the unique subsistence and cultural values of the forest, its fish and wildlife, and the communities that depend on it. Conservation measures for the areas identified as needing protections under the Traditional Homelands Conservation Rule must be co-created with community input, and the Forest Service should enter into contractual agreements and utilize the authorities detailed below with the appropriate local tribal government to manage, restore, and protect the resources in these areas.

The first step to establishing the conservation measures and management direction for these traditional use areas is the completion of an inventory of watersheds and road systems in the traditional use area. This inventory must then be analyzed with community input to identify the community priorities for subsistence, customary and traditional use, and other high socio-economic values. These areas should then be managed and conserved for the use designated to them by the ranking of community input; for example, high value salmon watersheds that are critical to community subsistence harvest but have experienced degradation due to past industrial development activities should be at the top of the priority list for restoration and resource conservation. Additionally, the Forest Service must implement a process that allows the Tribes to identify important cultural sites in these watersheds that were historically the location of community harvesting activities, such as traditional fish camps and smokehouses. The viability of supporting community harvest and fish camps in these sites should be assessed using scientific data, traditional ecological knowledge, and community input in order to restore the traditional uses and traditional infrastructure in these areas.

Tribal governments of Southeast Alaska are the federally recognized, sovereign bodies representing our tribal citizens. As previously stated, one of our sovereign Tribes' highest priorities is to protect the customary and traditional hunting, fishing, and gathering areas and uses within tribal traditional territory. In order to accomplish this priority, tribal governments must have more local control over our traditional use areas and our resources. Provisions for local control and input is one of the aspects that must be included in the Traditional Homelands Conservation Rule. Diverse stakeholder voices must be present as well as having a demonstrated impact on the decision-making process, unlike the process underlying the decision-making behind the preferred alternative for the Alaska Roadless Rule.

The following should be used as a starting point for discussions about potential management direction to be utilized in the traditional and customary use areas identified under the process detailed in the preceding section.

- Traditional and customary use:
 - o Streamlining subsistence community use permits for smaller communities to access all traditional use areas, instead of severe restrictions on where community use permits may be employed and utilized, so that Tribes are able to provide food for the entire community while practicing and exercising their traditional and customary cultural rights
 - o Completing subsistence surveys and granting authority to rebuild traditional cultural structures, such as fish camps, at the most heavily frequented subsistence locations
 - o Identifying red cedar trees with characteristics needed for cultural use trees within traditional territories and preserving these stands for future carving and weaving activities, and restricting their presence in commercial timber sales
- Workforce capacity and development
 - o The USFS should employ cooperative agreements, tribal authorities, challenge cost share agreements, partnerships, memorandums of understanding, and local hire when possible to increase workforce capacity amongst local tribal governments and the local community

- for fish, wildlife, timber, and infrastructure inventory, assessment, enhancement, and monitoring.
- Establishment of Forest Service training centers in rural communities in the Central Tongass and the Northern Tongass, similar to VOC-TEC on Prince of Wales, to reduce travelling costs and increase availability of learning, information, resources, and access to Forest Service representatives by local communities

V. ELEVATE THE ROLE OF TRIBAL GOVERNMENTS AS COOPERATORS AND COLLABORATIVE PARTNERS ON U.S. FOREST SERVICE DECISIONS AFFECTING TRADITIONAL AND SUBSISTENCE USE AREAS, AND SET DIRECTION FOR WORKING RELATIONSHIPS, PARTNERSHIPS, TRIBAL AUTHORITIES, AND OTHER MANAGEMENT AND RESOURCE PROTECTION OPPORTUNITIES

Tribes in Southeast Alaska are increasingly involved in land management planning, project implementation, habitat restoration, research, monitoring, inventory, and community Forestry activities. These “All-Lands” approaches are exemplified by the Hoonah Native Forest Partnership and the Keex’ Kwaan Community Forest Partnership in Kake. The Tribes submitting this petition request that the planning, management, and implementation processes in these community forestry approaches be more fully integrated into Tongass land management. The case-study pilot projects in Hoonah and Kake set a standard for science-based, landscape scale, community forestry approaches to watershed planning and project implementation. They model local hire and workforce development initiatives that the USDA should be investing in to further rural resilience, by employing 2-4% of the population of the communities they occur in. These projects and tribal entities have received support from USDA. **We request that similar planning, management, and project implementation initiatives be conducted with all interested and engaged Tribes throughout Southeast Alaska to manage and protect the Tribes’ traditional and customary use areas designated by the new rulemaking process that this petition requests.**

The indigenous peoples of Southeast Alaska have long relied on salmon for food, cultural lessons, economy, livelihoods, and as a keystone component of the ecosystems of Southeast Alaska. Traditional and customary harvest, commercial fishing, and sport and charter fishing with visitors and tourists, are important socio-economic activities for tribal citizens. The Tongass National Forest produces the majority of the salmon that tribal citizens depend on for their culture, sustenance, and livelihoods. Tribes have worked with the USDA Forest Service and other partners on joint subsistence fisheries monitoring, management, and restoration projects as exemplified by the Sitka Tribe of Alaska at Klag Bay, the Organized Village of Kake at Falls Lake, partnerships with the Hydaburg Cooperative Association at Hetta Lake, and others across the Tongass. We request that as part of the new rulemaking process that this petition requests, the USDA work together with the Tribes to find opportunities for partnerships and joint monitoring and management of the important salmon producing streams and lakes on the Tongass, and the integration and employment of tribal citizens into the management of these fisheries. The Forest Service should contract with the Tribes on the Tongass to address the culvert repair backlog to improve salmon habitat, practice local hire and workforce development, and improve socio-economic values in degraded watersheds based on community-identified priorities. The Forest Service should also prioritize subsistence access to these resources over other commercial and industrial usages, as outlined by the subsistence priority provisions in ANILCA.

One of the most important land mammal species for traditional and customary use by indigenous peoples of Southeast Alaska is Sitka black-tailed deer. Traditional and customary harvest of deer for food, medicinal purposes, sacred objects, artistic uses, and clothing is an important cultural and socio-economic activity for tribal citizens, and comprises a major part of a rural diet. Roadless areas with productive old

growth forests provide critical winter deer habitat and are essential for a healthy species to survive. We request that as part of the new rulemaking process that this petition requests, the USDA work together with the Tribes to find opportunities to incorporate local management and deer population concerns into management of subsistence resources and critical habitat.

Red and yellow cedar trees are also among our most important resources for traditional and customary use and are the basis of our Tlingit and Haida societies' artistic traditions. Our artistic expression is tied to our land, and we have always drawn inspiration and materials for our creations from our natural environment. Cedar trees and bark are used for the creation of our totem poles, canoes, clan houses, smoke houses, regalia, bentwood boxes, masks, hats, baskets, utensils, and *at. 'oowu*, our sacred objects. Artistic creations, carving, and weaving are all important cultural and socio-economic activities for our tribal citizens, as well as being an important cultural expression and method of healing from historical trauma. This crucial resource has been heavily targeted, especially in recent years, by an export-based timber market that does not benefit our local habitat, economy, or peoples. Yellow cedar is also threatened by climate change and mass die-off events. As part of the new rulemaking process that this petition requests, the USDA should work together with the Tribes to procure and protect cultural use trees for our Tribes, conduct an economic assessment of the value and local demand for this resource by carvers, artists, and local business owners working in Pacific Northwest Art traditions, as well as working to develop a long-term management paradigm for this resource that provides for an adequate supply of cultural use wood over the next seven generations.

New authorities in the 2018 Farm Bill provide for increased tribal self-determination in forestry management over traditional tribal territories. One expansion is the Good Neighbor Authority, which now permits the U.S. Forest Service to work with Tribes to conduct land management activities, infrastructure maintenance, silvicultural treatments, stream and uplands habitat restoration, and watershed management activities. These authorities have thus far not been utilized with Southeast Tribes. This petition requests that an evaluation of potential projects for utilization of these authorities be conducted and a suite of pilot projects be developed in conjunction with sovereign, federally-recognized tribal governments as defined in the Indian Self-Determination and Education Assistance Act of 1975, who will work with these authorities to conduct and implement management programs and activities.

The 2018 Farm Bill also provided for a tribal self-determination forestry contract program so that Tribes can enter into agreements with the USDA to protect public lands around our territories. This program will help the federal government fulfill its trust responsibilities to our Tribes by ensuring that we are able to steward and protect our traditional resources in our traditional use areas, as we have done since time immemorial. As far as we know, the P.L. 638 contracting authority that has recently been expanded to the U.S. Forest Service and Tribes has not yet been utilized. In the Tongass, this program is especially essential considering that our traditional territories have now been almost completely designated as 'public lands'. We view this program as bringing together multiple elements of the type of collaborative and cooperative agreements and authorities that we want to implement with the U.S. Forest Service, and we would like the Forest Service to pilot this program in Southeast Alaska. This petition requests that the U.S.D.A and the U.S. Forest Service propose and pursue the implementation of Tribal Forest Management Demonstration Projects with all interested and engaged tribal entities throughout Southeast Alaska.

Our experiences with the Forest Service over the years have been marked by a long history of trauma, colonialism, disrespect, and disempowerment. Despite this history, our tribal governments have been willing and able to forge new, cooperative agreements and partnerships with the U.S. Forest Service and other landowners in the region to accomplish stewardship activities and create outcomes with local

community benefits. These cooperative agreements and partnerships are modelled in the Hoonah Native Forest Partnership, the Keex' Kwaan Community Forest Partnership, Tribal Conservation District programs, and the joint subsistence fisheries management and restoration projects. Tribes on Prince of Wales Island also participated in the Prince of Wales Landscape Assessment Team (POWLAT) process to assist the U.S. Forest Service in the development of a landscape level assessment that would contribute to the well-being of the Tongass and create lasting economic and social resilience on the island. However, in the case of the POWLAT process, the outcome was extremely unsatisfactory. Tribes contributed their time and expertise to devise solutions, and then watched as the USFS chose to advance the large-scale timber sales included in the project over other projects that were identified as community priorities. Now, it seems as though this collaborative process was a guise for cultivating buy-in for 'community projects' that the USDA had no intention of prioritizing or funding, instead choosing to dedicate their resources and energy towards planning out timber sales that overwhelmingly do not advance community priorities or resiliency. We propose the POWLAT process as a learning opportunity for the USFS and the USDA. The collaborative process behind the planning exercise was conducted with respect and integration of tribal priorities, but the intent of the project was not adhered to when the planning was complete. We would encourage the USFS as they seek to repair and develop a working relationship with the Tribes to avoid using our collaborative effort and good intentions to forward disingenuous projects and proposals.

VI. CONCLUSION

The course USDA is now on is incompatible with traditional and subsistence uses of the forest, undermines the role of the Tribes in forest planning processes, comes at great risk to future generations and the long-term productivity of the forest, and highlights the history of disenfranchising Alaska Native Tribes from the decision-making process where traditional lands are at stake. Alaska Native cultural and traditional uses of the Tongass that have existed since time immemorial, and the modern and changing socioeconomic demands placed on the Tongass by Tribes and other southeast Alaska communities, demand a fundamental shift in how the Tongass is managed. The Tongass can no longer be viewed as stands of timber waiting for harvest; it must be viewed as a cultural resource that must be managed for the benefit of its local people, for the long-term productivity of its salmon streams and wildlife habitat, and to help mitigate impacts from climate change.

The purpose and need for this petition come from the Tribes' unique and intimate connections with the lands and resources of the Tongass National Forest. These connections and the productivity of our lands and waters are threatened by current management, including the impending removal of the 2001 Roadless Rule protections. The interdependence between our people and these lands, waters, and resources requires substantive recognition, protection, procedural and programmatic mechanisms to incorporate tribal concerns, input, knowledge, and desired management ideals and direction into forest management decision. We request that the USFS work with Alaska Native Tribes to honor and incorporate new, meaningful, binding, and formal standards through a new, independent rulemaking process that will guide the agency toward a more collaborative, respectful relationship in the future.

As we have repeatedly expressed in comments and communications regarding the Alaska Roadless Rulemaking, we assert that a full repeal of the 2001 Roadless Area Conservation Rule on the Tongass National Forest would have severe implications for our ability to protect our subsistence, traditional, and customary uses of the forest. We support maintaining these protections on the Tongass National Forest and nothing in this petition should be taken to misconstrue our support for the original 2001 Roadless Rule. However, our work with the USDA over the past two years has given us no reason to believe that the 2001 Roadless Rule will remain in effect on the Tongass. This and other threats of harm to our traditional homelands and traditional and customary uses of these areas compels us to petition USDA to improve its

approach to working with us in future decisions affecting these areas. Thus, for the reasons set forth above, the undersigned Tribes respectfully request that the USDA recognize and account for the inadequacies in process and consultation that were too often part of prior decisionmaking, including the Alaska Roadless Rulemaking process, and embark on a new, independent rulemaking process with our Tribes for the purpose of promulgating a Traditional Homelands Conservation Rule that identifies, protects, and appropriately manages Traditional and Customary Use Areas on the Tongass National Forest.

Therefore, we, the undersigned Tribes, request that the USDA commence a new rulemaking process in collaboration with the Tribes of Southeast Alaska to create a Traditional Homelands Conservation Rule and design a new consultation process for the following purposes:

- 1) To rectify the disingenuous consultation efforts perpetuated against federally recognized, sovereign tribal governments, in particular those during the Alaska Roadless Rulemaking process that commenced in 2018
- 2) To identify and appropriately protect areas and the characteristics they contain that are identified and utilized by Tribes as traditional, subsistence, and customary use areas
- 3) To develop and implement appropriate, forest-wide conservation measures and management direction that is based off the principles of subsistence priority, local control, and ‘all lands, all hands’ collaborative stewardship and management in order to protect the unique traditional and subsistence values of the Tongass, its people, and its fish and wildlife populations
- 4) To elevate the role of tribal governments and tribal entities as collaborative partners on U.S. Forest Service decision-making that affects traditional and subsistence use areas
- 5) To give direction for the working relationships, partnerships, tribal authorities, and other management and resource protection and enhancement opportunities that tribal governments and the USFS may enter into to model collaborative management of natural resources on the Tongass National Forest.

ATTEST:



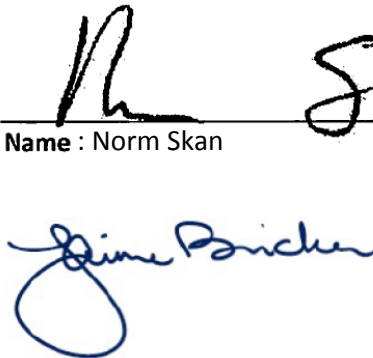
Robert Starbard, Hoonah Indian Association Tribal Administrator June 22, 2020

 Name Title Date



Lee Wallace, Organized Village of Saxman 6-26-2020

 Name Title Date



Norm Skan, KIC President 6/24/2020


 Name Title Date Ketchikan Indian Community

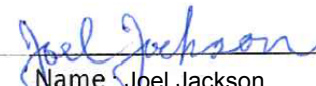


Jaime Bricker, Skagway Traditional Council President 6/16/2020

 Name Title Date

 Pres
Name: Barry Peratrovich Title: President, Klawock Cooperative Association Date: 6-16-20


Name: John P. Buller Title: Yakutat Tlingit Tribe President Date: 6/23/2020

 pres. OVK
Name: Joel Jackson Title: President, Organized Village of Kake Date: June 23, 2020


Name: Ronald Leighton, President, Organized Village of Kasaan Date: 6/29/2020


Name: Richard J. Peterson Title: President, Central Council of Tlingit & Haida Indian Tribes of Alaska Date: 07/16/2020