

# Alaska Rainforest Defenders

A regional environmental organization established in 2011 (formerly GSACC)

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Submitted electronically at:

<https://cara.ecosystemmanagement.org/Public/CommentInput?project=50337>

Re: Prince of Wales Island Landscape Level Analysis Project

Mr. Anderson:

I submit these comments on the Prince of Wales Island Landscape Analysis Project (POWLLA) on behalf of Alaska Rainforest Defenders (“Defenders”) formerly known as the Greater Southeast Alaska Conservation Community (GSACC). Defenders’ members use the Tongass National Forest, including the project area, for recreation, commercial fisheries, subsistence, wildlife viewing and other activities. The following comments respond to the preliminary issues identified in the updated Corrected Notice of Intent (NOI) and provide updates on resource and socio-economic issues and supplement our previously submitted comments.

These comments are additional to our comments of Dec. 30, 2016 (submitted under our former name), in the first round of scoping on this project.

A DVD containing the exhibits cited below was mailed to you today. Please ensure that the exhibits and other cited Forest Service documents are added to the planning record.

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## ***I. Introduction***

The Forest Service plans to remove 25 million board feet of old growth forest annually from 2019 through 2023, 15 million board feet of old growth forest annually from 2024 through 2029, and then evaluate further extraction levels based on whether “there will be harvestable old growth available ... beyond the 15 year timeline of this project.” In other words, the Forest Service intends to liquidate federal timber on the island with no consideration for resource values other than future timber industry needs. The POWLLA would also authorize the removal of 115 MMBF of recovering second growth forests from 2022 to 2031 and delay the forest succession process. [82 Fed. Reg. at 312285]. This project would thus remove, at a minimum, 315 MMBF over a fifteen year period.

These levels of timber extraction are unreasonable, particularly in light of the damaged ecological condition of the island and pending non-federal land timber sales. This project would occur shortly after the largest and most destructive federal timber project in decades, the Big Thorne Stewardship Project, leaving even less to work with, and creating unacceptable environmental risks. Further, the proposed volume does not reflect a reasonable assessment of current and potential demand for timber from the project area. Instead, this project continues the trend of managing public lands on Prince of Wales Island as a subsidized timber colony that provides high value cedar and other material to Viking Lumber’s de facto parent corporation in Washington state or other Pacific Rim wood processors far outside the region.

Our comments focus in part on the relationship between the proposed action and Viking Lumber Company, because it is clear (even though Viking is not mentioned in the Corrected NOI) that the substantial intent of the POWLLA project is to support Viking’s business. The identified purpose and need is to provide a level of timber production to maintain industry infrastructure on POW and benefit the economies of POW communities — factors that point to the intent being to support Viking. [82 Fed. Reg. at 31284]. Further, the intent is to “provide material to local mill operators” through sales ranging from large to micro in size. Clearly, with 315 mmbf proposed to be offered for sale during the life of the project, Viking is the only operator – in comparison to the other local operators collectively – that meets these criteria and is capable of handling the bulk of that timber volume.<sup>1</sup> The unmistakable but undisclosed primary purpose and need for the project is to support Viking, and our comments are written accordingly. Further, the DEIS must disclose this and in its analyses be up-front about the ramifications for all concerns.

Defenders also notes that the Corrected NOI indicates that the project could include road maintenance and improvements, invasive species treatments, erosion control and fish passage improvements. [82 Fed. Reg. at 31285-31286]. We would like to see the Forest Service implement a project that emphasizes fisheries habitat remediation projects on Prince of Wales Island with an emphasis on repair or removal of barrier culverts and/or road decommissioning. But efforts to ameliorate degraded habitat conditions will be undermined by occurring in conjunction with a proposed

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<sup>1</sup> The other POW mills consume about 2 mmbf per year, or only 6% of the project’s proposed 315 mmbf total volume (or 10% of the project’s proposed 200 mmbf of old-growth timber volume).

action that would remove 315 MMBF of timber from old growth and recovering forests.

### **A. Requests**

Thus, as explained in our comments:

(1) we request that the POWLLA project be immediately discontinued.

(2) we request that any further planning of federal activity on Prince of Wales Island reflect a *new* purpose and need statement that reflects the broader economic and ecological needs of southeast Alaska residents and wildlife.

(3) if the project does proceed we request that the DEIS provide tables showing likely employment levels and timber values that reflect the reality of projected export and transshipment of raw logs and cants versus local processing.

(4) we request that the DEIS declare the following *significant issues* and analyze them in detail:

- Whether the project has violated the Federal Advisory Committee Act (FACA).
- Fisheries impacts in light of Southeast Alaska's market-based transition toward a fisheries economy and the significant risks to fisheries resources implicated by this project. An alternative or mitigation measure should be developed that addresses fish passage concerns.
- Viking's markets, business practices and volumes concerning export & transshipments of cants and logs by species and grades (compared to substantive local processing to lumber), and the related economics.
- Timber economics should be a significant issue, and local utilization (as opposed to transshipment and export) should be the most significant sub-issue there.
- The low benefit of maintaining the current level of the timber industry infrastructure and workforce versus harms to the rest of the economy and biological resources.
- Whether the Tongass Conservation Strategy is adequate, since it dates in large part to 1997 and because modifications to it were not considered for the 2016 TLMP Amendment.
- Impacts to each of the following forest resources: old-growth forest; populations and habitats of wildlife (including wolves, goshawks, marbled murrelets, deer, marten, the POW spruce grouse, bear, and endemic small mammals) and salmon; and abundance of deer for subsistence and non-subsistence hunters.

(5) We request the detailed consideration of alternatives: (a) with no commercial timber production, but providing for other kinds of projects as specified in the NOI; and (b) an alternative that provides for those other kinds of projects and no timber production from old-growth.

## **II. The Forest Service must withdraw the Corrected Notice of Intent because of the agency's inability to administer large timber sales and because it utilized an illegal federal advisory committee to establish the scope of the project**

Defenders submits that the Forest Service must cease planning on the POWLLA project for two reasons: (1) the Forest Service lacks the institutional capacity to

administer a large timber sale for Viking Lumber Company because of oversight, contractual and appraisal issues and (2) the Forest Service established an unauthorized advisory committee to establish the project's scope, violating the Federal Advisory Committee Act and bypassing NEPA.

**A. *The Forest Service lacks the ability to administer large timber sales for Viking Lumber Company because of significant accountability concerns***

The Tongass National Forest has a long history of permitting timber operators such as Viking Lumber Company to operate in a lawless manner in Southeast Alaska, ignoring timber export violations, scaling fraud, and outright timber theft.<sup>2</sup> Defender's Board is well aware that the Alaska Rules<sup>3</sup> still apply through groundtruthing the Tonka Timber project, where Viking would clearcut deer winter range prescribed for selective cutting, and expand cutting units beyond the prescribed acreage to whatever size Viking deemed fit.

In 2016, the Washington Office reviewed the Alaska Region's timber sale and administration processes for two Viking Lumber timber sales – the Tonka Timber Sale on Lindenberg Peninsula and recent Big Thorne Project on Prince of Wales Island. The review showed that (1) instead of improving “forest ecosystem health,” the Tongass National Forest allowed Viking to highgrade the most ecologically valuable trees rather than the trees intended for removal to achieve the desired “forest ecosystem health” effects; (2) the Forest Service failed to conduct timber-theft prevention inspections and (3) all monitoring and reports of timber removals, etc. were self-reporting by Viking Lumber Company. These problems are a particular concern given that a major purpose of this project is to “improve forest ecosystem health” through timber removal prescriptions implemented by Viking.

The failure of the Forest Service to inspect Viking's activities and require adherence to the timber sale contract for the Tonka sale cost taxpayers \$2 million alone – more than twice the amount Viking paid for the timber.<sup>4</sup> On-the-ground operators admit that harvest prescription or contract terms were irrelevant to what happened on the ground – they cut only according to Viking Lumber's instructions.<sup>5</sup> Forest Service maladministration of these timber sales through various avenues cost taxpayers hundreds of thousands of dollars. The appraisal methods resulted in artificially low appraisal rates for higher value species such as Alaska Yellow Cedar and Sitka Spruce.<sup>6</sup> And the logging and haul costs were much lower than estimated by the Forest Service, resulting additional windfalls to Viking Lumber.<sup>7</sup>

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<sup>2</sup> Exh. 1. PEER. 1996. “Stealing the Tongass: Playing by Alaska Rules in the U.S. Forest Service.” Public Employees for Environmental Responsibility, 1996.  
[https://www.peer.org/assets/docs/whitepapers/1996\\_stealing\\_tongass.pdf](https://www.peer.org/assets/docs/whitepapers/1996_stealing_tongass.pdf)

<sup>3</sup> Concerning “Alaska Rules,” see Exh. 1 above.

<sup>4</sup> Exh. 2. Tonka Timber Sale DXPRE Post-Harvest Monitoring Results.  
[https://www.peer.org/assets/docs/fs/4\\_3\\_17\\_Post\\_Harvest\\_Monitoring.pdf](https://www.peer.org/assets/docs/fs/4_3_17_Post_Harvest_Monitoring.pdf)

<sup>5</sup> *Id.*.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

Ironically, after receiving that windfall of more than \$2 million dollars under the Tonka contract due to the under-estimate of logging and towing costs, Viking Lumber wants the Forest Service to give it more taxpayer money from the Big Thorne contract because it says the Forest Service over-estimated tow and haul costs. How can this be? Didn't Viking enter the contract at its own risk after reviewing the cost estimates both during the NEPA and contract process? Even if there was a legitimate problem, the proper procedure is for Viking Lumber is to file a claim and have it reviewed by the Federal Court of Claims which has expertise in settling such claims. But even though the long history of timber theft and maladministration on the Tongass National Forest is disturbing, there is nothing more shocking than Acting Regional Forester Becky Nourse's response to the Washington Office's review of the timber sale program: we should directly give Viking more taxpayer money because they didn't earn as much on the Big Thorne timber sale as anticipated.<sup>8</sup> Wasn't the review aimed at requiring the Forest Service to take steps to eliminate windfalls to Viking, rather than increase them? Given the accountability problems, how do we know Viking didn't already receive a significant windfall because it got stewardship credits for projects it never completed or only partially completed?

Now, after all these problems, the Forest Service wants to design 315 MMBF of timber sales on a heavily fragmented island with significant ecological problems for a timber operator to run amok cutting some of the most ecologically important forested areas for the sake of "ecosystem health" while the Forest Service looks the other way or pulls out the check book any time Viking needs more cash flow.

Defenders submits that these issues also bear significantly on the agency's ability to implement standards and guidelines (such as they are) intended to protect other resource values. How can the Forest Service rely on Viking Lumber to apply Forest Plan Standards and Guidelines for other forest values such as dens, nests or riparian areas in the absence of responsible oversight?

In sum, the Tongass National Forest and Alaska Region of the Forest Service lack the institutional capacity and will to administer a large timber sale for a lawless timber operator like Viking.

### ***B. The Forest Service established and utilized an unauthorized federal advisory committee to develop the scope of this project***

The Forest Service is funding and using an unauthorized federal advisory committee to develop the scope of the Prince of Wales Island logging projects for consideration in the Prince of Wales Landscape Analysis, in violation of the Federal Advisory Committee Act (FACA). Congress enacted the FACA in 1972 to "enhance the public accountability of advisory committees established by the Executive Branch

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<sup>8</sup> Exh. 3. Nourse, R. 2017, 31 May. Memo to Forest Service Chief Tom Tidwell re: Results of the Big Thorne IRTC Supplemental Review. Defenders adds that the Washington Office's review of the Alaska Region's problems included a significant critique of the Forest Service's NEPA contractor, Tetra Tech. The Big Thorne Project planning record showed that Tetra Tech billed the Forest Service and received compensation for work it did not do, raising further questions about agency accountability. If there was an error in the analysis, why do taxpayers have to pay? Doesn't Tetra Tech indemnify the Forest Service for its screw-ups? If not, why not? And shouldn't Tetra Tech be responsible for covering Viking's \$2 million windfall from the Tonka contract?

and to reduce wasteful expenditures on them.” [*Public Citizen*, 491 U.S. at 459]. The FACA governs the management of any “committee, board, commission, council, conference, panel, task force of other similar group, or any subcommittee or other subgroup thereof” which is established or utilized by a federal agency for the purpose of soliciting advice on agency activities. [5 U.S.C. App. § 3 (emphasis added)]. Congress enacted FACA in response to concerns about closed-door meetings and undue influence from special interest groups. Consequently, the FACA establishes requirements for the establishment, conduct and composition of advisory group meetings.

The word “established” is to be used “in an expanded sense of the word” and “in a generous sense” and with a “broad understanding” in order to encompass all such committees formed directly or indirectly by the federal government or its agencies. [*Miccasukkee Tribe*, 304 F.3d at 1085; *Public Citizen*, 491 U.S. at 462-63]. This “generous” interpretation of “established” refers not just to committees directly established by the agency, but also to those committees established for the agency. [*Public Citizen*, 491 U.S. at 463].

In both ways, the Forest Service established the Prince of Wales Landscape Assessment Team (POWLAT) for purposes of the POWLLA project. In one, the Forest Service established the unauthorized advisory committee by initiating the process and funding it with federal funds under its Challenge-Cost-Share Agreement with the state of Alaska and additional taxpayer money and other tax-exempt funds through the Forest Service’s congressionally chartered foundation - the National Forest Foundation. In the other, the Forest Service also established the unauthorized advisory committee for the exclusive purpose of soliciting advice and recommendations on its timber sale programs. Then, in response to the POWLAT’s recommendations, the Forest Service developed “Activity Cards” for the project and initiated the current second scoping process to incorporate POWLAT’s recommendations as principal components of the proposed action.

FACA clearly applies when an agency utilizes a group formed by an entity other than a federal agency when the establishing organization can be described as “quasi-public.” Quasi-public status can occur when the semi-private establishing entity is “so closely tied to an agency as to be amenable to strict management by agency officials” or is “[any] semiprivate entity the Federal Government helped bring into being.” [*Animal Legal Defense Fund, Inc.*, 104 F.3d at 430]. Federal start-up funding provided the initial capital for the National Forest Foundation (NFF), which in turn has funded POWLAT’s activities. [16 U.S.C. 583j]. The Secretary of Agriculture appoints the NFF board and the chief of the Forest Service is an ex officio board member. [16 U.S.C. 583j]. The NFF has unlimited discretion to utilize Forest Service personnel, facilities and equipment subject only to terms implemented by the Secretary of Agriculture. [16 U.S.C. 583j].

The Forest Service’s utilization of the POWLAT to develop this project violates FACA and other federal laws designed specifically to ensure the public accountability of activities associated with federal advisory committees. For example, Congress has specifically addressed public land management in two other laws. NFMA provides that the Forest Service “shall establish procedures, including public hearings where appropriate, to give the ... public adequate notice and an opportunity to comments

upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.” [16 U.S.C. § 1612(a)]. The statute specifically requires compliance with the Federal Advisory Committee Act:

In providing for public participation, in the planning for and management of the National Forest System, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, shall establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards shall be representative of a cross section of groups interested in the planning for and management of the National Forest System and the various types of use and enjoyment of the lands thereof. [16 U.S.C. § 1612(b)].

In 1977, Congress issued another directive to U.S. Department of Agriculture advisory committees in 1977 to achieve three purposes: “(1) require strict financial and program accounting by advisory committees of the Department of Agriculture; (2) assure balance and objectivity in membership of such advisory committees; and (3) prevent the formation or continuation of unnecessary advisory committees by the Department of Agriculture.” [7 U.S.C. § 2281]. The statute prohibits more than one employee of any non-Federal entity from serving on the same advisory committee at any one time and limits terms of non-federal employees to no more than six consecutive years. [7 U.S.C. § 2283(b)(c)]. Finally, the Secretary is to terminate any advisory committee that fails to file required reports or “does not serve or has ceased to serve an essential public function.” [7 U.S.C. § 2286(2),(5)].

The Corrected Notice of Intent falsely states the “[t]he proposed action was developed with input from an independently formed, broadly-based collaborative group” which provided “suggestions for a wide array of site-specific projects.” [82 Fed. Reg. at 31284]. This statement is a lie. In March 2016, the Forest Service encouraged “a POW-Island based group to form and take a large part in the effort to develop the Forest Service’s landscape assessment.”<sup>9</sup> The group then formed in May 2016 explicitly to “function in advisory capacity to develop recommendations regarding the Prince of Wales Forest Service Landscape Assessment.”<sup>10</sup> The Prince of Wales Landscape Assessment Team’s (POWLAT) stated mission is to:

...assist the [U.S. Forest Service] in the development of a landscape level assessment for Prince of Wales Island area by developing and providing recommendations to the Forest Service that contribute to the well-being of the National Forest and to lasting economic and social resilience within the Landscape Assessment area. [POWLAT 2016, Attachment 6].<sup>11</sup>

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<sup>9</sup> Exh. 4. “The Forest Service is encouraging a POW-Island based group to form and take a large part in the effort to develop the Forest Service Landscape Assessment.” <https://www.powcac.org/other-projects/>

<sup>10</sup> *Id.*

<sup>11</sup> Exh. 5. <https://www.nationalforests.org/who-we-are/press-news/136-000-in-grants-to-support-alaska-watersheds-and-communities> (showing the FS is funding the POWLAT).



The Forest Service conducted an initial scoping process for the POWLLA Project that ended on December 30, 2016. The POWLLAT did not comment during the initial scoping process that ended December 30, 2016.<sup>12</sup> NEPA requires that the scoping process be an “open process for determining the scope of issues to be addressed” that includes “other interested persons (including those who might not be in accord with the action on environmental grounds.” [40 C.F.R. § 1501.7]. But the Forest Service cast aside public input from individuals and organizations that participated in the NEPA process, and instead spent the next half-year developing the scope of the analysis through the POWLAT. POWLAT did not submit scoping comments, and submitted its recommendations<sup>13</sup> outside of the scoping process on June 5, 2017, over 5 months after the scoping period ended.

The POWLAT met five times after the close of the initial scoping period, all for the exclusive purpose of providing the Forest Service with recommendations on a list of projects to occur pursuant to the POWLLA Project.<sup>14</sup> The POWLAT’s website shows that Forest Service personnel provided presentations to the group for the purpose of informing their recommendations.<sup>15</sup> Notably, the Forest Service itself provided the highest proportion of meeting participants – nearly a third (8 of 23) at the January 2017 meeting, nearly half (11 of 23) at the February 2017 meeting, and nearly a third (15 of the 48) participants at the March 2017 meeting, including the Forest Supervisor.<sup>16</sup>

The use of the POWLAT to define the scope of the action and alternatives bypassed the initial scoping process, and ignores NEPA’s mandate to “[e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment.” [40 C.F.R. § 1500.2(d)]. The POWLAT is clearly an advisory committee within the meaning and coverage of FACA and was subject to its requirements. The Forest Service initiated the POWLAT, funded it, provided it with direction as to how make recommendations, and then ultimately adopted those recommendations as the proposed action for the NEPA analysis.

The POWLAT has never attempted to comply with FACA’s notice, reporting and balanced representation requirements. The Forest Service used the National Forest Foundation to fund the POWLAT through the City of Thorne Bay, as if the Forest Service could simply launder its public process responsibilities in the same way criminals launder money.<sup>17</sup> And Alaska’s Division of Forestry is funding the POWLAT as well, but through a “cost-sharing agreement” through which federal taxpayers will reimburse the Division of Forestry’s expenditures.<sup>18</sup>

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<sup>12</sup> <https://cara.ecosystem-management.org/Public//ReadingRoom?Project=50337>

<sup>13</sup> Exh. 6. POWLAT’s recommendations, submitted on June 5, 2017.  
<https://www.powcac.org/s/POWLAT-Final-Package-June-2017.pdf>

<sup>14</sup> Exh. 4. <https://www.powcac.org/other-projects/>

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* (Meeting sign up lists).

<sup>17</sup> Exh. 5. <https://www.nationalforests.org/who-we-are/press-news/136-000-in-grants-to-support-alaska-watersheds-and-communities>

<sup>18</sup> <https://cara.ecosystem-management.org/Public//ReadingRoom?Project=50337>, see comment letter from Chris Maisch, Division of Forestry.

The result is that the decision to proceed with this project – particularly the POWLAT’s recommendations - is unlawful. The unauthorized advisory committee process runs directly counter to a number of public process goals embodied in NFMA, NEPA and the FACA. In the event the Forest Service does proceed with this project, further NEPA documentation should estimate public costs, including grant funds and Challenge Cost Share Agreement funds associated with the POWLAT, its membership balance and appointment process, and discuss all communications and directions given to members as part of their task.

### **C. Conclusion**

The Forest Service should not proceed with this project because it is incapable of enforcing Viking Lumber Company’s on-the-ground activities in a manner that makes the timber operator accountable. Further, the Forest Service cannot proceed with a project developed and initiated by an unlawful federal advisory committee.

### **III. Concerning the POWLLA Project’s purpose and need**

#### **A. The Purpose and Need for the project is overly narrow and arbitrarily aims at a timber supply for Viking Lumber**

The Corrected Notice of Intent states that the purpose of the project “is to improve forest ecosystem health on Craig and Thorne Bay Ranger Districts, help support community resiliency, and provide economic development.” [82 Fed. Reg. at 31284]. The need is to “provide a sustainable level of forest products to contribute to the economic viability of Prince of Wales communities” and to “maintain the expertise and infrastructure of the timber industry to integrate timber harvest with other projects. Defenders recognizes that the Corrected Notice of Intent identifies other “needs” such as restoration and recreation objectives. But these “needs” are clearly subordinate to the true focus of the POWLLA Project – providing 315 MMBF of timber for Viking. This actual purpose and need statement is unreasonable – allowing Viking Lumber to further liquidate publicly owned forests will harm the economic viability of communities that depend on fisheries and wildlife. Further, there is no need to maintain current infrastructure or labor in a market-based economy. The southeast Alaska workforce has shifted to employment opportunities in other business sectors, making the “need” to maintain infrastructure and workforce superfluous. The actual habitat remediation needs – reducing sediment inputs into streams from the poorly maintained transportation system and repairing red pipes – are road construction projects for which there is existing local labor and infrastructure that exists independently of timber workers.

Defenders thus disagrees with the timber industry purpose and need stated in the Corrected Notice of Intent. Defenders also questions the need to “manage” second-growth forest for products or other values given the high costs associated with logging or otherwise managing second growth forests. Past, present and future intensive clearcutting of old-growth forests in the short-term and subsequently

combined with plans to clearcut recovering forests over the long-term poses unjustifiable risks to Region 10 sensitive species, subsistence wildlife species such as deer, apex predators, salmon and unique, endemic wildlife species.

In particular, the Forest Service needs to consider whether the federal government can provide a better return from the public expenditures on POW land management activities made by local and national taxpayers. The timber industry need statement continues a costly course of producing taxpayer-funded, large-scale old-growth timber sales as long as deemed necessary to maintain Viking Lumber's large export business and small mill production, and then shifts that subsidy to the logging of recovering forests. The Forest Service needs to reinitiate the scoping process and develop a revised purpose and need for federal land management activities on Prince of Wales Island.

Defenders recognizes that the Prince of Wales Landscape Level Analysis Project includes a need to address watershed concerns and contribute to recreation infrastructure. But can the Forest Service show that it has appropriated funds to achieve appropriate watershed and recreation objectives? Are the "restoration" needs dominated by thinning projects which primarily aim at timber industry objectives such as accelerating growth for future logging? Does the Forest Service intend to remove mature second growth trees in riparian, beach fringe or other sensitive areas and then experiment with mechanized equipment placing them in otherwise functioning watersheds during spawning season or other sensitive stages of the anadromous fish life cycle and call it "restoration?" Simply put, Defenders does not trust the Forest Service to develop a cost-effective approach to cleaning up the mess left by Viking Lumber and other timber operators so long as the agency intends to "integrate timber harvest with restoration opportunities" as indicated in the Corrected Notice of Intent. Until the Forest Service develops realistic priorities that actually benefit salmon production or even expensive treatments aimed at wildlife habitat needs such as red pipe replacement and small (less than an acre) canopy gap treatments, the "restoration" need is just greenwashing the agency's forest landscaping experiments.

Defenders thus submits that the other components of the purpose and need are empty promises (or projects that would be accomplished anyway) meant to obscure and greenwash the agency's priority for timber development "over the competing environmental and recreational goals without justification sufficient to support the agency's balancing of these goals." *Natural Resources Defense Council v. U.S. Forest Service*, 421 F.3d 797, 808 (9<sup>th</sup> Cir. 2005). Defenders submits that veiled purpose and need for the POWLLA project reflects an overly narrow focus on providing timber for one private entity – Viking Lumber Company. Even if the Forest Service could somehow remediate the damage Viking Lumber Company and others have done to the island in a cost effective manner, the decision to adopt the POWLAT recommendations to remove 315 MMBF of old growth and recovering forest from the island wholly undermines the value of such remediation efforts.

The Forest Service is proposing a landscape scale project over an extended time frame that emphasizes old and second growth forest removals for Viking Lumber. As explained by the CEQ, "the purpose and need statement for a programmatic review

will differ from the purpose and need for a project- or site-specific EA or EIS.”<sup>19</sup> “The purpose and need for a [Programmatic] EA or a [Programmatic] EIS should be written to avoid eliminating reasonable alternatives and focused enough for the agency to conduct a rational analysis of the impacts and allow for the public to provide meaningful comment on the programmatic proposal.”<sup>20</sup>

The emphasis on providing timber for Viking Lumber in the need statement is an overly narrow purpose and need that would preclude alternatives that would respond to other, more important programmatic considerations. An agency “cannot define its objectives in unreasonably narrow terms.” [*City of Carmel-by-the-Sea v. U.S. Dep’t of Transportation*, 123 F.3d 1142, 1155 (9<sup>th</sup> Cir. 1997)]. Congress enacted NFMA in part to respond to “widespread public distress and scientific concern over the Forest Service’s post-World War II shift to massive, heavily subsidized timber production in the National Forests.” [*Sierra Club v. Peterson*, 185 F.3d 349, 353-54 (5<sup>th</sup> Cir. 1999)](superseded on other grounds, 228 F.3d 559 (5<sup>th</sup> Cir. 2000)). The goal was to ensure that timber production would not be the “sole objective” of the Forest Service and to direct forest managers to protect other resources such as fish and wildlife habitats. [S. Rep. 94-893, reprinted in 1976 U.S.C.C.A.N. 6662, 6671].

***B. The project’s “purpose & need” is contrary to the actual economic situations of POW and Southeast Alaska***

The Corrected Notice of Intent erroneously identifies a “need” to provide forest products in for the purpose of contributing to economic viability on the island. But the planning record for the 2016 TLMP Amendment (TLMP or LRMP (land resources management plan))shows a broad decline in the U.S. share of the global timber economy – declines that reflect “powerful, on-going changes in the role the U.S. plays in global markets.”<sup>21</sup> The competitive disadvantage is particularly significant for southeast Alaska timber.<sup>22</sup> The Pacific Northwest Research Station’s own publications verify these significant downward trends.<sup>23</sup>

Defenders objected to old growth cut levels established in the Amendment because the Forest Service’s approach to setting desired levels of timber removals ignores market factors entirely – factors that have changed considerably since the 2008 TLMP Amendment.<sup>24</sup> The Tongass National Forest’s own mill production reports identify a “major reconfiguration” in the national forest products sector occurring in 2008, and

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<sup>19</sup> CEQ. 2014. Memorandum for heads of federal departments and agencies: effective use of Programmatic NEPA reviews at 18. Council on Environmental Quality, Washington D.C. December 2014.

<sup>20</sup> *Id.* at 18-19.

<sup>21</sup> See 2016 LRMP FEIS PR Folder 763\_02\_000084 (Niemi 2016, Socioeconomic Comments on Timber Demand at 12.

<sup>22</sup> *Id.* at 14.

<sup>23</sup> See 2016 LRMP FEIS PR Folder 763\_02\_000088, documents PNW RB-265 (Zhou 2013)) and PNW RB-266.

<sup>24</sup> See 2016 LRMP FEIS PR Folder 763\_02\_000084 (Niemi 2016, Socioeconomic Comments on Timber Demand at 15-16.

show that mill production and employment to have dropped in half since the 2008 TLMP amendment.<sup>25</sup>

Despite the Forest Service's myopic focus on supplying timber for Viking at a massive public cost, Southeast Alaska has experienced a market-based transition away from federal timber dependency and toward a more diversified and sustainable economy. Over the decade 2004-2014, timber employment decreased by nearly 90%, and the industry is smaller than it was a century ago.<sup>26</sup> Employment levels approached nearly 500 jobs per year prior to the TLMP Amendment, and have since dropped by half. [2016 LRMP FEIS at 3-485, Table 3.22-4]. Timber removals in southeast Alaska overall at best provide 1% of total regional employment and 3% of total resource-based employment in the region. [*Id.* at 3-481, Table 3.22-3]. Federal timber was responsible for a fraction of a percent (0.2%) of regional employment in 2013. [*Cf. id.* at 3-480, Table 3.22-2 (53,145 total jobs); *id.* at 3-485, Table 3.22-4 (federal timber provided 123 jobs)]. Timber worker earnings are less than 1% of total employment related earnings in the region.<sup>27</sup> The significance of these jobs relative to the overall economy is even smaller because employment data do not include the thousands of workers who are self-employed in the commercial fishing industry.<sup>28</sup>

Conversely, economic activity associated with ecosystem values, particularly values associated with wildlife, have a substantial positive impact on the regional economy. Wildlife are much more important to the economy than Viking's clearcuts. In 2011, wildlife hunting and viewing generated 2,463 jobs in southeast Alaska, \$138 million in labor income and \$360 million in total economic output.<sup>29</sup> In contrast to the failed timber program, federal programs that support recreation can make positive contributions toward enhancing the visitor economy. According to a recent peer-reviewed analysis, the National Park Service returns \$10 in direct visitor spending for every \$1 invested.<sup>30</sup> This return is 2000 times as high as the ½¢ per dollar return from the timber sale program. Alaska ranks third in the nation in spending and job support, with visitors to national parks spending \$1.06 billion and supporting 16,181 jobs.<sup>31</sup> The program supports 400 private businesses.<sup>32</sup> Further, the record shows that overall, the visitor industry impact in southeast Alaska is massive and dwarfs the timber industry by an order of magnitude, with average visitor industry spending in excess of \$1 billion per year, providing between 10,200

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<sup>25</sup> See 2016 LRMP FEIS PR 769\_05\_000024 at 6 (showing mill production of 31.7 MMBF in 2007 and 23.7 MMBF in 2008); 769\_05\_000025 at 8 (showing mill production of 13.4 MMBF in 2009 and 15.8 MMBF in 2010); PR 769\_05\_000036 at 3 (showing recent drops in mill production and employment).

<sup>26</sup> See 2016 LRMP FEIS PR 769\_05\_000340 at 10 (Southeast Conference 2014, "Southeast Alaska by the Numbers 2014").

<sup>27</sup> *Id.* at 3.

<sup>28</sup> *Id.* at 4, 6.

<sup>29</sup> See 2016 LRMP FEIS PR 763-05-00116 at 24 (EcoNorthwest 2014).

<sup>30</sup> See 2016 LRMP FEIS PR Folder 763\_02\_000088, document 112 (Thomas et al. 2014).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

and 10,900 jobs, with labor income impacts ranging from \$370 million to \$407 million.<sup>33</sup>

The other major private sector employer, commercial fishing, generated \$219 million in ex-vessel value alone (meaning direct fishing revenue exclusive of processing jobs and other economic outputs) in 2013. Lands managed by the Forest Service provide slightly more than half of southeast Alaska's salmon catch.<sup>34</sup> Salmon hatcheries provide an additional 22 percent of the statewide salmon value, and are the largest agricultural industry in Alaska, providing hundreds of jobs.<sup>35</sup> Thus, the record shows that commercial fishing, the visitor industry and the maritime sector are the "bright points in our economy."<sup>36</sup> These sectors have contributed to an overall growth in employment, population and wages following a market-based recovery from past dependence on the timber industry.<sup>37</sup> Overall, employment, total income, per capita income and per-capita business earnings have increased in the region since 2000. [2016 LRMP FEIS at 3-442, Table 3-279].

The timber industry makes no positive economic contribution to the majority of southeast Alaska communities and the habitat damage it causes reduces economic outputs from their primary business sectors. Only two of the 24 smaller rural communities have any timber activity at all, while the rest depend primarily on fishing and tourism. [2016 LRMP FEIS at 3-547-3-689]. The FEIS addresses the needs of those two communities separately with an old-growth set-aside for the cottage industry. [*Id.* at 3-152]. And while the 2008 TLMP FEIS anticipated that timber activities would benefit Petersburg, Wrangell and Ketchikan [2008 TLMP FEIS at 3-640, 3-661, 3-705], the updated analysis shows that the 2008 TLMP's projection was in error because those communities have fully transitioned toward economies based on tourism and fishing. [2016 LRMP FEIS at 3-613, 3-639, 3-684-685]. Viking's contribution to timber industry employment is mainly in Craig and Klawock [*Id.* at 3-558, 3-617], with perhaps some minor contribution in Coffman Cove and Thorne Bay [*Id.* at 3-552 & -674].

Thus areas with some level of past timber activity have recovered from their historical dependence on federal timber. Over the past decade, the Prince of Wales Island area has redefined its economy around small proprietorships in specialty wood mills, fishing and seafood and hospitality businesses.<sup>38</sup> Population levels have rebounded over the past five years.<sup>39</sup> Nature-based tourism generated more than \$30 million in gross revenues to Prince of Wales Island in 2007 – mostly from sport fishing.<sup>40</sup> There were population increases throughout the region including in

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<sup>33</sup> See 2016 LRMP FEIS PR 765\_05\_000334 at 8 (McDowell Group 2015).

<sup>34</sup> See 2016 LRMP FEIS PR Folder 769\_02\_000088, Exh. 34 at 11 (Alexander 2011).

<sup>35</sup> *Id.* at 13.

<sup>36</sup> See 2016 LRMP FEIS PR 769\_05\_000340 at 1 (Southeast Conference 2014).

<sup>37</sup> *Id.* at 2-3.

<sup>38</sup> See 2016 LRMP FEIS PR Folder 769\_02\_000088, Exh. 32 (Sitnews 2012; Exh. 33 Economic Trends 2012).

<sup>39</sup> *Id.*

<sup>40</sup> Exh. 8. Big Thorne FEIS at 3-454.

Ketchikan and Wrangell and nearly all Prince of Wales Island communities from 2010 – 2013.<sup>41</sup>

In other words, the POWLLA Project will do significant harm to the economic viability of southeast Alaska communities in general and further inhibit market-based economic growth on Prince of Wales Island by perpetuating a federal land use policy that has been unsuccessful for decades and inhibits the natural, market-based transition toward other economic models with proven recent success in the region. The Forest Service isn't planning this project for an industry in the conventional sense of businesses employing workers – this is merely a corporate welfare program for Viking that simultaneously supports a massive number of federal, state, and other for-profit and not-for-profit corporate bureaucrats.

In sum, the purpose and need for the POWLLA Project – with 315 MMBF of timber sales – is not a forest ecosystem health project at all but rather a massive timber program with an overly narrow focus on providing a future timber supply for a failing small mill in order to justify existence of the massive bureaucracies that support Viking Lumber. This unjustifiable program will be at the expense of federal and state taxpayers and small commercial fishing and tourism businesses in the region. The Corrected Notice of Intent begins with the false assumption that federal timber supply can maintain the industry. It then wrongly assumes that maintaining the existing industry would somehow benefit Prince of Wales Island rather than inhibit and delay significant and positive economic changes because of the market-based transition toward recreation and fishery-based economies.

For the above reasons, we request that any further planning of federal activity on Prince of Wales Island reflect a *new* purpose and need statement that reflects the broader economic and ecological needs of southeast Alaska residents and wildlife. For example, the Forest Service could develop a comprehensive plan to address water quality issues with an emphasis on red pipe replacement and remediating road conditions that cause excessive sediment input into streams.

### **III. The NEPA analysis must confront the low need for a timber workforce versus harm to the rest of the economy**

The need statement asserts that the POWLLA Project would contribute to economic viability and “help to maintain the expertise and infrastructure of the timber industry.” [82 Fed. Reg. at 31284]. The Forest Service wrongly assumes that a project aimed primarily at supplying Viking Lumber with timber from federal lands would provide local employment benefits. Here, the timber-dominated purpose and need for the POWLLA Project aims exclusively at providing a timber supply for Viking Lumber. While the stated need for the recent LRMP Amendment, for example, was to provide opportunities for southeast Alaska residents in the timber “industry,” the Forest Service has never recognized that a very small number of actual southeast Alaskans work in the industry, nor does it show how Viking Lumber would provide significant local employment. Thus, the purpose and need are arbitrarily narrow because of the perceived needs of Viking defined the scope of the POWLLA Project. Any further development of this project needs to include an analysis that takes a

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<sup>41</sup> See 2016 LRMP FEIS PR 769\_05\_000340 at 5 (Southeast Conference 2014).

hard look at the purported “workforce” that would receive employment resulting from the project.

Nowhere in the 2016 LRMP FEIS did the Forest Service explicitly define a “viable timber industry.” As defined in the dictionary, an “industry” refers to “systematic labor especially for some useful purpose or the creation of something of value” or a “department or branch of a craft, art, business or manufacture; especially one that employs a large personnel or capital especially in manufacturing.”<sup>42</sup> It is beyond dispute that there is very little timber manufacturing employment in the region. [2016 LRMP FEIS at 3-485, Table 3.22-4].

The 2016 LRMP timber goals and objectives imply that the plan amendment would provide for a timber processing industry. The plan goal for timber directs the Forest Service to “[m]anage the timber resource for *production of saw timber and other wood products* from lands suitable for timber production.” The amended objective similarly directs the Forest Service to “[m]anage young growth to provide commercial timber products” and to supply volume to “local mills.”

The timber industry in southeast Alaska has become very small since the 2008 TLMP Amendment. There have been no new sawmills established since 2000 and the overall number of sawmills declined by half to ten active operations since 2000. [2016 LRMP FEIS at 3-487]. The Forest Service’s mill capacity reports show that the industry has declined by significantly more than half since 2008 in terms of both production and employment.<sup>43</sup> Indeed, the forest products sector as a whole experienced a “major reconfiguration” in 2008 and local industry production dropped from 31.7 MMBF in 2007 to 13.4 MMBF in 2009.<sup>44</sup>

Table 3.22-6 in the 2016 LRMP FEIS displays timber industry activity in 2013. Federal timber provided 13.8 MMBF of a total 17.6 MMBF of the locally processed timber in 2013. [2016 LRMP FEIS at 3-488]. Nine of the ten sawmills essentially comprise a very small cottage industry and processed a total of 2.6 MMBF in 2013. [*Id.*, Table 3.22-6]. Viking processed only 11.5 MMBF of federal timber in 2013, and marginally processed less than one-third of that volume. [*Id.*; *see also* 2016 LRMP FEIS PR 769\_05\_000336 at 6, 8 (Parrent 2014) (3.5 MMBF sawn into cants)]. It employs a mere 34 mill workers. [2016 LRMP FEIS PR 769\_05\_000336 at 4 (Parrent 2014)]. Thus, the range of demand for federal and non-federal timber for use by actual industry is well below the POW Landscape Assessment Team’s wish list. [2016 LRMP FEIS at 3-492, Table 3.22-8].

In 2007, the Regional Forester developed a limited interstate shipment policy that it expanded in 2009 to allow timber sale purchasers to export 50 percent of total Sitka spruce and western hemlock sawlog volume. [2016 LRMP FEIS, Appx. H at H-4-5]. The authorization to export 50 percent of the sawlog volume operates as a floor rather than a ceiling, with the Forest Service allowing Viking and Alcan exceed the 50 percent floor on a case-by-case basis. [*Id.*, Appx. I at I-169]. Thus it seems clear that the federal timber sale program primarily benefits corporations outside the region

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<sup>42</sup> [www.merriam-webster.com/dictionary/industry](http://www.merriam-webster.com/dictionary/industry)

<sup>43</sup> *See* 2016 LRMP FEIS PR 765\_05\_000336 at 3 (Parrent 2014).

<sup>44</sup> *See* 2016 LRMP FEIS PR 765-05-000024 at 6, 14 (Parrent 2008).



rather than the southeast Alaska economy, while residents of the region are left with very consequential resource damage and environmental impacts and reduced economic outputs from the commercial fishing and tourism economic sectors. It is unreasonable and arbitrary to focus management of the nation's third largest island on satisfying the perceived needs of one timber operator.

The export policy further reduces the return to the local economy from the public spending on the timber program by diminishing local utilization of timber and local manufacturing employment. The 2016 LRMP FEIS makes clear that the Forest Service intends to authorize the export of roughly two-thirds of the timber removed from federal forests as unprocessed logs. [2016 LRMP FEIS at 3-492-3-493, Tables 3.22-8, 3.22-9]. In general, Alcan and Viking have exported nearly all the cedar and half the hemlock and spruce sawlogs as unprocessed raw logs since the Alaska Region developed and subsequently liberalized its export policy. Indeed, between 2008 and 2009 the ratio of federally supported mill jobs per MMBF of federal timber dropped to nearly one-half. [See *id.* at 3-486-3-488, Tables 3.22-4, 3.22-5, 3.22-6]. Overall, the 2016 LRMP FEIS shows a clear decline in actual "industry"/mill employment relative to federal timber removals over time, with pre-export policy federal timber (2002 – 2007) supporting 2.2 processing jobs per MMBF, and post-liberalized export policy federal timber (2009 – 2014) supporting 1.5 processing jobs per MMBF. [*Id.*]. This job transfer to foreign timber processors may be worse under the Amendment, but the Forest Service has never confronted this issue – which should be critical to ascertaining whether the POWLLA Project would meet even the very narrow need of providing a forest products industry that provides jobs for southeast Alaskans.

Also, there are low levels of local employment in logging, raising further questions about whether the POWLLA Project would support jobs for southeast Alaska residents. Non-resident employment accounts for a significant amount of jobs in southeast Alaska's resource-dependent sectors. [2016 LRMP FEIS at 3-483]. The number of actual timber workers is so small that reports by the Alaska Department of Labor lump logging jobs with other natural resource-based job categories, such as fishing, mining and agriculture.<sup>45</sup> The LRMP FEIS record shows that overall, workers from areas other than southeast Alaska comprise a significant proportion of the natural resource-based work force, and nearly half of the timber related jobs in southeast Alaska are held by non-residents.<sup>46</sup> Since the 2008 TLMP Amendment, federal timber has supported 110 jobs per year. [2016 LRMP FEIS at 3-485, Table 3.22-4]. Are half of those jobs then actually held by reality TV show "Axe Men" from Oregon? Federal timber provides such a small amount of jobs that it would not be difficult to answer this question, but the Forest Service ignores it.

Further, there appears to be little workforce in the jobs the Forest Service seeks to create. The Southeast Conference reports a "graying" of the regional timber workforce and states that the "workforce is aging/in decline while the new workforce

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<sup>45</sup> 2016 LRMP FEIS PR 769\_05\_000344; -000314; -000318; - 000319 (Alaska Department of Labor data).

<sup>46</sup> 2016 LRMP FEIS 769\_05\_000329 at 16-18, 22 ( ADOL 2015).

does not have the same work ethic or interest in physical work.”<sup>47</sup> Similarly, another federally and state funded timber industry group, the “Tongass Transition Collaborative” also reports the “graying workforce” and suggests the need to develop a younger workforce.<sup>48</sup> The Tongass Transition Collaborative suggests that taxpayers should finance this training program through federal and state funding from the Challenge Cost Share Agreement.<sup>49</sup> But the industry itself believes that young people can’t or won’t do physical work, and the Southeast Conference’s recognizes that “[l]ogging has become a socially unacceptably business to be in.”<sup>50</sup> Thus it appears the Tongass Transition Collaborative just wants to waste taxpayer funds on jobs programs to train people for jobs that nobody actually wants to do. Additionally, how many loggers in existence actually learned their jobs from publicly funded logging classes?

The NEPA analysis for the POWLLA Project *needs to confront* significant economic issues and changing workforce needs in order to assess whether a purpose and need aimed primarily at providing a timber supply for Viking Lumber (and its de facto parent corporation in southwest Washington and Pacific Rim customers) would meet the stated local employment and economic viability need, versus harms to the rest of economy discussed elsewhere in our comments.

#### ***IV. The DEIS needs to assess – by species and grade – economics of the log and cant volume likely to be exported/transshipped versus substantially processed locally***

Given that there is ample supply and little local demand, we submit that the most significant issue in the timber economics section of the DEIS should be local utilization. The DEIS should provide a realistic assessment of the timber volume by species and grade that Viking Lumber Company is likely to transship or export. Also, nearly half the value of Tongass timber projects is derived from cedar. The DEIS should provide information regarding the respective values of tree species and grades most likely to be utilized locally versus those that may be exported or transshipped without primary processing. This information is also important so that the public can assess how much of the public investment in this project can be expected to benefit the regional economy. If Viking Lumber Company or its contractors bring in non-local workers, and Viking ships the high value cedar overseas or to its parent corporation in Washington State and low value logs overseas, southeast Alaska loses fish habitat, tourism opportunities and wildlife and gets little if anything in return.

The Forest Service should not attempt this analysis until it conducts a comprehensive review of Viking’s markets and business practices to, for example, determine how much high value cedar ends up in the Dahlstrom family’s Aberdeen, Washington mill. This is a significant issue because Viking may be in large part a

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<sup>47</sup> Exh. 9. Southeast Conference. 2016. Southeast Alaska 2020 Economic Plan at 26.

<sup>48</sup> Exh. 10. Campen, S. & D. Portner. 2016. POWLAT\_2016\_Tongass Young Growth Symposium Post-meeting briefing. [http://www.merid.org/en/tongassimplementation/~media/Files/Projects/tongassimplementation/Tongass Young Growth Field Trip Goals and Objectives.pdf](http://www.merid.org/en/tongassimplementation/~media/Files/Projects/tongassimplementation/Tongass%20Young%20Growth%20Field%20Trip%20Goals%20and%20Objectives.pdf)

<sup>49</sup> Id.

<sup>50</sup> Exh. 9. Southeast Conference. 2016. Southeast Alaska 2020 Economic Plan at 26.

front corporation producing small amounts of lumber when the real motivation is to supply what is, quite literally, the parent corporation's outside mill with logs or minimally processed cants.

Recent NEPA documentation has displayed a range of potential local employment impacts and direct income levels under the assumption that there could be local sawmill utilization of cedar. That suggestion is misleading, and we request that this DEIS provide tables showing likely employment levels and timber values that reflect the reality of the projected export and transshipment of raw logs and cants versus local processing. This information is critical so that the public can evaluate the extent to which this project generates local wood processing employment.

## **V. Wildlife Issues the DEIS must address in detail**

### **A. Adequacy of the Tongass Conservation Strategy**

Defenders objected to the recent Forest Plan Amendment's failure to update the Wildlife Conservation Strategy. [TLMP FEIS, Appx. I at I-53]. The Forest Service relied on recent and anticipated declines in the overall levels of old-growth forest removals across the entire planning area, ignoring site-specific and species-specific needs. [*Id.* at I-50]. It thus determined that changes to the Conservation Strategy or to species-specific guidelines were outside the scope of the amendment. [*Id.* at I-42, I-84, I-89].

The Forest Plan Amendment record shows that the five year review preceding it included concerns about the inadequacy of the Conservation Strategy, for example concerning TLMP standards and guidelines for deer, particularly deer winter range habitat generally and specifically deer habitat on Prince of Wales Island. [TLMP PR 769\_02\_000002 at 4-69]. The status of deer populations weighs significantly on the viability of Alexander Archipelago wolves. The 2008 TLMP FEIS described "stable" wolf populations in GMU 2 (Prince of Wales Island) described by the Forest Service as supporting "some of the highest wolf densities in the state" based on 2003 data from ADF&G. [2008 TLMP FEIS at 3-238]. But as explained by the Fish and Wildlife Service (FWS), the GMU 2 population declined from an estimated population of 350 wolves from the early 2000s to 89 wolves in 2014. [2016 Tongass National Forest LRMP FEIS, Appx. I, Att. A, FWS 2016 at 4]. Thus, the FWS echoed the concerns stated during the five-year review:

Implementation of existing standards and guidelines intended to protect wolves from unsustainable harvest and habitat loss appears to be inadequate for the wolves on Prince of Wales, given the population's documented decline. [*Id.*].

The five year review also identified a need for strengthened conservation measures for Queen Charlotte goshawks, especially on Prince of Wales Island, and for endemic species such as the northern flying squirrel. [TLMP PR 769\_02\_000002 at 4-73, 4-166-171, 4-174-175]. Additionally, there is new scientific information bearing on the ability of the Forest Plan to ensure the viability of these species. [TLMP PR 769\_02\_000002 at 4-183, 4-186; *see also* 2016 Tongass National Forest LRMP FEIS, Appx. I, Att. A, FWS 2016 at 5; PR 763\_05\_000465 (Smith et al 2010); \_000478 (Smith et al. 2010); \_000530 (Smith 2013); \_000531 (Smith & Person 2011)]. The

FWS identified a need to update the conservation strategy for Queen Charlotte goshawks so as to reflect ongoing scientific reviews. [Tongass National Forest LRMP FEIS, Appx. I, Att. A, FWS 2016 at 5]. Dr. Winston Smith's 2013 analysis of conservation measures for the Queen Charlotte goshawk explained that it was inadequate to ensure the viability of the species, [PR 763\_05\_000530], and he reiterated that flaws with the conservation strategy in subsequent comments on the DEIS.

Because the 2016 TLMP Amendment did not reconsider the adequacy of the Conservation Strategy (either as it stood or as it is affected by the amendment), the NEPA burden of considering significant new information concerning fish and wildlife and their habitats falls upon the level of planning for this project.

The Forest Service should conduct and document surveys for wildlife species present in the project area and discuss their locations and preferred habitat uses in the DEIS. This analysis should entail more than a quantitative approach to measuring productive old growth losses at various scales. Instead, there needs to be consideration of specific habitat features that are essential to wildlife viability and sustained populations, particularly in light of the high degree of existing fragmentation of habitat in the project area. Those few areas that do provide at least some degree of unfragmented habitat, should be left alone to buffer impacts of past and future timber extraction, particularly in light of pending non-federal timber removals. In this section we begin with a discussion of impacts to Sitka black-tailed deer, Alexander Archipelago wolves and Queen Charlotte goshawks (QCGs) with an emphasis on information and issues that are of heightened importance. We believe impacts to the three aforementioned species merit treatment as significant issues given the importance of deer for hunting and the precarious population status of wolves and QCGs.

### ***B. Impacts to Alexander Archipelago Wolves and deer hunting***

Wolves and deer hunters are both impacted by loss of the habitat's deer carrying capacity. Wolves are also impacted by human-caused mortality. This broad mortality cause is a matter of access (road density), the management of hunting and trapping seasons, and the amount of poaching and other unreported loss (e.g. wounding loss and strikes by vehicles). When deer hunters are impacted by insufficient abundance of deer (or a perception of that), poaching can be expected to increase. For all of these reasons, the Forest Plan standard and guideline that is intended to protect wolves recognizes the need to provide for the deer needs of hunters. If hunters are not provided for, especially given the social climate on Prince of Wales Island and the large loss of deer habitat to date, the sustainability of the wolf population on the island can be in jeopardy. The long delay in impacts for deer carrying capacity to take effect (i.e. 25-40 years) due to the process of forest succession worsens the situation from planning and management perspectives. It is important that the EIS fully discuss these interrelationships and the involved problems for wolves and hunters (when deer carrying capacity becomes insufficient or when road density is excessive) in relation to cumulative impacts resulting from the project's alternatives.

The wolf population on Prince of Wales Island remains low, despite a small recent rebound, and is impacted by loss of habitat carrying capacity for deer, the density of roads as a factor in human-caused mortality,<sup>51</sup> and the management of hunting and trapping seasons. The first two factors have long-term effects, and are a result of Forest Service's timber program and the programs of other entities on non-federal lands. In general in the WAAs (wildlife analysis areas) on Prince of Wales Island, the carrying capacities for deer are generally substandard, and road densities are at high levels that are unsafe for the sustainability of the island's wolf population.<sup>52, 53</sup> In prior timber project NEPA documents, the Forest Service has excused projects' additional diminishment of deer carrying capacity and the construction or reconstruction of roads in areas with excessive road density by saying that management of wolf hunting/trapping season can negate these problems. Such argument is fallacious, and must not be made in the POW LLA EIS.

There have been abject failures in management of the wolf hunting and trapping season in recent years, an indication that it is unreasonable to rely on season management for sustaining the POW wolf population, for the 2013/2014 [Exhs. 14a&b]<sup>54</sup> and the 2016/2017 season [Exhs. 15 & 16].<sup>55</sup> In the first case, ADF&G neglected to take into account the illegal take of wolves in managing the season. In the second case, local trappers intentionally "gamed" the management season, so that the 11 wolf quota was exceeded by a factor of 2.5, with 28 wolves taken.<sup>56</sup> In addition, road closures by the Forest Service have frequently proven to be ineffective in preventing access to areas intended to be close to vehicles, and are often difficult to put in place in the first place due to social pressures on the agency. [See, e.g.: Exh. 18<sup>57</sup> at 19 & 25 and its cited documentation; however, please also note that the suggestions made in the exhibit are optimistic, have been made for years in other documents, and still have not proven effective.]

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<sup>51</sup> Exh. 11, Person & Brinkman 2013, "Succession Debt & Roads".

<sup>52</sup> See, respectively, TLMP S&G XIV.A(2) and A(1). Although the S&G addresses both sustaining wolf populations and providing for the hunting of deer (in competition with wolves), the satisfaction of hunter demand for deer is crucial to the sustainability of the POW wolf population because when deer numbers become insufficient to support both and deer harvest restrictions become necessary, poaching of both deer and wolves (see more on this later in the comments) will threaten the island's (and GMU2's) wolf population with extirpation both directly and indirectly. Moreover, because the Forest Service is unable to assess Tongass-wide wolf viability directly, the TLMP S&Gs instead rely on protecting the sustainability of individual wolf populations as a proxy for satisfying the NFMA biodiversity and viability requirements.

<sup>53</sup> See also: Exh. 11 and 12, declarations by POW wolf expert David Person for the Big Thorne project, respectively made in 2013 and 2015.

<sup>54</sup> Correspondence between Larry Edwards and ADF&G concerning how the season was conducted.

<sup>55</sup> Comments of 4 Aug. 2017 to the FSB, in part regarding conduct of the 2016/2017 season.

<sup>56</sup> Although Exh. 15 (a news article) says 29 wolves were reported harvested (sealed skins), the final count was actually 28 according to ADF&G at the Southeast Subsistence RAC's March 2017 meeting [Exh. 17, meeting transcript].

<sup>57</sup> Exh. 18, "Interagency Wolf Habitat Management Program: Recommendations for Game Management Unit 2," R10-MB-822, March 2017. Note that a critique of this document is in preparation, and will be provided later. Relevant here, the "or less" provision concerning road density in the wolf standard and guideline was not taken into account. There are also deficiencies in the document concerning deer habitat.

Accordingly, it is improper for the Forest Service to rely upon wolf season management and road closures to avoid applying the restrictions on the road density and loss of deer carrying capacity in S&G XIV.A. All alternatives need to avoid road construction in WAAs where road density (for all land ownerships) exceeds 0.7 mi/mi<sup>2</sup>, with substantial consideration for whether road density should be limited to “less” than 0.7 or brought back to such lower level where that is exceeded now. Concerning deer habitat capability, in WAAs with a modeled carrying capacity of less than 18 deer/mi<sup>2</sup> there should no further logging planned for this project, with young growth left to recover.<sup>58</sup>

Although the US Fish & Wildlife Service decided in 2015 not to list the Alexander Archipelago wolf under the Endangered Species Act, it is important that the POW LLA EIS recognize that this wolf remains a species of concern, and the USF&WS’ Status Review concluded in its final sentence, “[T]he persistence of the GMU 2 population is desired and requires careful management actions and decisions to ensure its future health.” [Exh. 19 at 127 (pdf-139)].

### **1. The component of impacts to deer**

With respect to the project’s impacts to wolves and deer hunters, we have significant concerns about previous and ongoing removals of high value winter deer range on Prince of Wales Island and the impacts of this project on remaining deer habitat — of any quality. Non-federal timber projects have had and will have a significant impact on whatever high value winter deer range remains on the island. Given the cumulative loss, and existing scarcity of high value winter deer range on the island, we believe that the DEIS will need to consider preserving remaining moderate and lower value deer habitat,<sup>59</sup> and include cumulative impacts to those habitats as a metric for project impacts.

It is beyond dispute that much of the logging under the POWLLA Project will abut previous logging units where canopy closures are now or will soon be occurring. Please include a map in the DEIS that provides the dates of previous harvests by

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<sup>58</sup> In this regard we note that Exh. 18 identifies the “critical” importance of old-growth habitat of deer, it does not substantially discuss at all, much less in a location-specific fashion. Its old-growth recommendations are generalizations that may well be dangerous given the cumulative impacts to deer habitat on Prince of Wales Island, and it gives no information on why any further logging of old-growth might be considered acceptable. Further, substantial attention is given to logging young growth, including with block rotations. The peer review of the Tongass Conservation Strategy (Kiester & Ekhardt 1994, 603\_\_0009) concluded, however: “Because of the unusually long time needed for succession to achieve climax in these temperate rain forests, a rotating block design for timber harvesting is not appropriate. Therefore, sufficient biodiversity reserves must be established, and these must be permanently unavailable for timber harvest. Otherwise blocks must be allowed to serve as source areas for many years beyond the age at rotation.” [Id. at 17 (pdf-24)]. This applies especially on hard-hit Prince of Wales Island.

<sup>59</sup> Exh. 18 (the 2017 interagency wolf habitat management program recommendations) notwithstanding, given the tremendous cumulative loss of deer habitat on Prince of Wales Island, even old-growth habitat on north-aspect slopes and at high elevations should generally be considered important. In some cases these will contribute to winter habitat, and in others they will contribute to fitness going into winter.

cutting unit so the public can review the cumulative effects of past timber harvest on deer populations. Much of the project area and surrounding lands are already heavily fragmented and contain large portions of what is currently, or soon to be, unsuitable deer habitat due to canopy closure in the extensive created openings and second-growth stands.

Please include an assessment of the impacts on subsistence from increased access for sport hunting and fishing due to more roads. Given the numerous proposals for timber-related road construction in the project area, it is necessary to do project level analysis of road closures and road management objectives now.

In the assessment of cumulative impacts to deer, please provide a realistic estimate of the carrying capacities of the WAAs for deer (in deer/mi<sup>2</sup>) for the historic (e.g. 1954) and current conditions. Realistic estimates for these periods are for the actual carrying capacities as best can be estimated; i.e. not involving an estimate of zero for the carrying capacity of current non-federal lands at those times. It is, however, essential to assume zero carrying capacity in the foreseeable future for non-federal lands because that reflects the experience of progressive habitat loss on such lands to date. To the extent that the 2011 deer modeling directive contradicts this approach, the directive must be ignored because such direction is contrary to the requirements of NEPA for high quality, accurate and relevant information and for the full and fair discussion of all responsibly raised issues.

## **2. *The issues of deer and wolf poaching***

The issue of unreported or illegal take of wolves and deer has frequently been glossed over by both the Forest Service and ADF&G. The Forest Service plays a role in the management of the hunting and trapping seasons for wolves, through its voting seat on the Federal Subsistence Board and its cooperation with ADF&G. How these seasons are managed is germane to the impacts the POWLLA project will have, and how its impacts will be assessed in the EIS.

The poaching and other unreported take of wolves, deer and bear on POW is a significant issue that is an important concern for sustainability of the wolf population and fair and equal availability to deer to subsistence hunting residents of the island (in particular) as well as other deer hunters. It is important that the EIS present a candid assessment of the illegal take situation. For each these three species, ADF&G management reports indicate a level of illegal and other unreported take that is roughly equal to the reported (legal) take. [See detailed discussions in Exh. 16]. Please disclose in the EIS this consistent level across species and discuss the ramifications of this management problem for the project and its impacts.

## **C. *Analysis of Impacts to Queen Charlotte Goshawks***

### **1. *Discuss uncertainties about QCG populations and trends***

There are significant uncertainties about the current status of goshawk populations and the adequacy of Forest Plan nest protection measures. The DEIS needs to undertake site-specific analysis of impacts to habitat in the vicinity of known nest areas given significant scientific concern about eliminating important

foraging habitat in the vicinity of known nests.<sup>60</sup> The findings of FWS status reviews and prior risk assessments, as well as other recent studies, demonstrate the risks of continued and serious population decline associated with further loss of habitat caused by old-growth logging.

QCGs are a small, isolated and almost certainly declining population. Both compositional analyses and radiotelemetry studies show that breeding pairs of QCGs “in managed landscapes of southeast Alaska likely rely almost entirely on productive old-growth forests as foraging and nesting habitat” to meet life history needs and avoid second-growth or non-forested habitats.”<sup>61</sup> Intensive clearcutting in southeast Alaska “has converted many watersheds to very low quality habitat, or non-habitat, for goshawks. Loss of this habitat has likely contributed to at least local declines in QCG populations.” [FWS 2007 at 81 (FWS 2007)].<sup>62</sup>

Population levels are unknown; according to the Fish and Wildlife Service, southeast Alaska may support just a few to several hundred breeding pairs. [FWS 2007 at 48-49].<sup>63</sup> By 2005, experts had identified only 72 unique nest areas, with most of them reportedly inactive, and new nests were not being found. [Exh. 25,<sup>64</sup> slides 9 – 12]. In sum, QCG populations on the Tongass National Forest are of unknown but small size and vulnerable, which raises a substantial question about the possibility of significant adverse environmental impacts arising from the POWLLA on the few remaining breeding pairs.

QCGs select primarily for very highly to moderately productive old-growth (250 years or older). [Exh. 26, Iverson et al. (1996) at 43].<sup>65</sup> There is very little use of low productivity forests, and QCGs actively avoid clearcuts, nonforested areas, and “mature sawtimber” stands (75 – 150 year old stands). [*Id.* at 43]. The Fish and Wildlife Service’s 2007 status explained that QCGs in southeast Alaska are highly vulnerable to additional stresses – because of the low population level, “low survival or reproductive rates could not be sustained long before viability of the subspecies would be at risk.” [Exh. 27, FWS 2007 at 8-9]. Further, a 2005 study of QCGs on the Haida Gwaii concluded that QCGs experience more breeding failures than other

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<sup>60</sup> Exh. 22. Northern goshawk *Accipiter gentilus laingi* Recovery Team. 2008. Recovery Strategy for the Northern Goshawk, *laingi* subspecies (*Accipiter gentilus laingi*) in British Columbia at 18. Prepared for the British Columbia Ministry of Environment, Victoria, B.C. 56 pp.

<sup>61</sup> Exh. 23. Smith, W. 2013 at 7.

<sup>62</sup> This document is the Fish and Wildlife Service’s 2007 status review; as it is usually included in timber project administrative records we do not submit separately and expect that it is already or will be part of the record for the DEIS.

<sup>63</sup> The FWS does note that based on one model, habitat in southeast Alaska could “potentially support” higher numbers of QCGs but that model overestimates habitat capability by considering territories with as little as 20% old growth as suitable. In fact, QCG breeding and activity is unlikely to be detected in a landscape with less than 60% old growth. [Exh. 24 (Doyle 2005)]. Also, designated Wilderness and roadless areas are unlikely to support QCG populations or buffer population losses caused by timber harvest. [Exh. 26. (Iverson et al. 1996)].

<sup>64</sup> Forest Service. 2006. Conservation Strategy Review: An assessment of new information since 1997. Northern goshawks on the Tongass National Forest – summary of study findings related to forest management. (Powerpoint presentation).

<sup>65</sup> This document is the Forest Service’s 1996 conservation assessment which is usually included in timber project planning records; we assume it will be included in this project as well.



northern goshawks, and raised the concern that “at the present rate of productivity, insufficient young are possibly being produced to allow the population to be maintained.” [Exh. 24 (Doyle 2005) at 1-2]. Doyle’s study identifies a number of risks that were highly relevant to the analysis, including risks associated with low productivity, specific flaws with the use of the high probability foraging habitat methodology and uncertainties about using different timber management prescriptions to mitigate population effects. Risks identified by Doyle :

- (1) QCGs produce few young fledglings per breeding attempt relative to other northern goshawks, and were possibly not producing sufficient young in the study area (Haida Gwaii), raising the question of whether small insulated island populations with low breeding rates can maintain a viable population;
- (2) successful breeding may require greater than 60% productive old growth;
- (3) because of an absence of nest activities outside of known nests, it is unreasonable to rely on measurements of highly productive habitat as goshawks are not being detected in those areas;
- (4) uncertainties about the effectiveness of a variable retention approach.

In sum, there are significant uncertainties about immediate and long term risks to QCGs, and consequently, the viability of the species throughout southeast Alaska. The DEIS should consider the population status and particular vulnerabilities of project area QCGs, and that recognizes uncertainties about the viability of the population, particularly in response to further logging in the vicinity of known nests.

## **2. The DEIS needs to evaluate and disclose responsible scientific opinions that raise serious questions about the TLMP conservation strategy regarding QCGs**

Closely related to the question of current QCG population status and risks is the issue of whether current TLMP standards and guidelines and the conservation strategy, such as they are, can effectively sustain QCG viability. For example, federal and state wildlife agencies believe that measures implemented in the 2008 TLMP Amendment (and unchanged in the 2016 Amendment) reduce conservation standards and necessitate a reconsideration of the 2007 status review. [2008 TLMP FEIS, Attachment A to Appendix H, at HA 14, 17, 39]. A subsequent study by one of the region’s leading goshawk experts identified uncertainties pertaining to whether TLMP conservation measures provide the habitat features necessary to sustain well-distributed QCG populations across the Alexander Archipelago. [Exh. 23 (Smith 2013)].<sup>66</sup> Smith’s review follows several other important QCG studies that provide important information about QCG habitat needs and breeding success.

Dr. Smith’s analysis indicated that risks to QCGs under the TLMP are likely even greater than anticipated under the 1996 risk assessments. [*Id.* at 6]. Specifically, the 1996 risk assessment assumed that the TLMP conservation strategy, particularly the reserve system, would in part mitigate habitat loss from excessive timber harvest. [*Id.*]. However, Dr. Smith’s study indicates that contributions from reserves and

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<sup>66</sup> Smith, W.P. 2013. Spatially explicit analysis of contributions of a regional conservation strategy toward sustaining northern goshawk habitat.

other conservation elements (buffers) “might not mitigate the cumulative habitat loss in intensively managed landscapes.” [*Id.*]. Dr. Smith added that there is “evidence on nearby islands that extensive loss and fragmentation of habitat from clearcut logging contributed to population declines of QCGs.” [*Id.*]. Dr. Smith’s analysis explicitly stated that TLMP standards and guidelines “are unlikely to meet breeding-season habitat objectives established for goshawk populations” in other areas. [*Id.* (citing (Reynolds et al. 1992); Exh. 28 (McClaren et al. 2005)<sup>67</sup>]. In a 2012 letter to the Forest Service regarding the Big Thorne Project, Smith explained that these findings “increase[d] uncertainty about conservation measures contributing sufficient habitat to sustain well-distributed viable populations of [QCGs].” [Exh. 29<sup>68</sup> at 5]. Specifically, Smith’s study showed that:

- TLMP conservation measures contribute about half the secure habitat recommended for post-fledgling areas of breeding pairs in other portions of the northern goshawk’s range
- Guidelines for northern goshawk populations in other areas may underestimate habitat needed by QCGs due to limitations in prey resources
- Breeding pairs in southeast Alaska “likely rely almost entirely on productive old-growth forest as foraging and nesting habitat as few mammal species inhabit low-volume or managed forests and the structure of second growth stands renders prey unavailable to foraging QCGs. [(Exh. 23 at 6-7)].

Another recent study, Sonsthagen et al 2012 (Exh. 30), also is relevant to the analysis of cumulative effects and site-specific impacts. Sonsthagen et al indicate that a metapopulation framework actually suggests a heightened need for specific individual nest site protections because without those, the individuals would blink out, resulting in the loss of source populations and over time, the metapopulation would cease to exist.

In sum, Dr. Smith’s study in particular identified significant uncertainties and adverse risks to QCGs associated with the inadequacy of the TLMP conservation strategy. The DEIS should discuss and respond to Smith’s analysis of the conservation strategy, and assess the implications of Sonsthagen’s discussion of metapopulations.

### **3. The DEIS needs to address the impacts to QCG habitat features through appropriate scales of analysis**

The 1996 conservation assessment found that a “broad scale of analysis fails to consider distribution of habitat throughout southeast Alaska,” [Iverson et al. (1996); Exh. 24 (Doyle 2005)(explaining that it is unreasonable to rely on habitat measurements outside of known nests)]. We therefore request that the environmental

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<sup>67</sup> McLaren, E.L. et al. 2005. Northern Goshawk (*Accipiter gentilis laingi*) post-fledgling areas on Vancouver Island, British Columbia. *J. Raptor Res.* 39(3): 253-263 (recommending that “[m]ultiple PFAs within one goshawk home range should be managed to create an area that maintains connectivity among alternate nests and to adjacent stands of similar habitat (i.e. reduce stand isolation) to minimize possible edge effects, facilitate food transfers from adults, and provide dispersal corridors”).

<sup>68</sup> Smith, W. 2012. Big Thorne Project Comments (November 6, 2012).

analysis specifically consider prey availability and other features such as alternative nest sites for project area QCGs.

We are also concerned about using impacts to high-probability nesting habitat as the primary metric for impacts to QCGs. This approach masks degradation to specific goshawk foraging habitat caused by logging in the vicinity of the nests. A site-specific analysis is possible and will generate a more accurate evaluation of impacts to QCGs. For example, the Forest Service has in the past evaluated timber projects by considering impacts to foraging habitat and disruptions within a 6,000 acre foraging area surrounding each nest. [Exh. 31 (pages from S. Lindenberg FEIS 1997)]. This scale of analysis essentially ignores site degradations because they are too small to affect the accomplishment of habitat measurements at the WAA scale, so analyses at both scales is necessary.

Dr. Smith's findings and other studies trigger the need for analysis of foraging habitat, alternative nest sites, and other habitat features. For example, the absence of sufficient prey, particularly mammals, can lead to food stress and starvation. [USFWS 2007(identifying a number of females on Prince of Wales Island that died of starvation during a 2002 study)]. The DEIS should analyze whether the project itself provides for alternate nests and post-fledgling habitat. Dr. Smith's findings concluded that the TLMP strategy prescribed the reserve-based approach despite insufficient local information, and that "[m]ore importantly, the 1997 TLMP did not incorporate the concepts of nest area, post-fledging area (PFA), and foraging area habitat management that underpin the current paradigm of conservation planning to sustain viable populations of northern goshawks." [Exh. 23 at 7]. Thus, "[p]lanners and managers may want to revisit assumptions that current standards and guidelines and other conservation measures provide sufficient breeding system habitat." [Id.]. The DEIS needs to demonstrate consideration of 3 hierarchical biological components, "all of which need to be considered simultaneously in land-use planning or mitigation: ... 1) nest area; 2) post-fledging (family (PFA); and 3) foraging area." [Exh. 29 at 5; see also Exh. 28]. Dr. Smith's review of the scientific literature showed that the majority of a PFA should provide, at a minimum, 60% old growth forest. [Exh. 23 at 6; see also Exh. 29 at 4 (finding that the mean proportion of POG in nest areas was 71% when excluding nest trees on clearcut sites or natural features creating an abrupt forest edge (e.g. shorelines)]. The DEIS should disclose and respond to Dr. Smith's study and other risks identified in other relevant studies, including additional site-specific and quantitative analysis of habitat features required by QCGs, and consideration of effective mitigation measures.

#### **4. The DEIS needs to consider cumulative impacts to southeast Alaska QCG populations**

Because serious concerns continue about QCG viability throughout the Alexander Archipelago, this project implicates serious concerns about the viability of the species across its range. The effects determinations in the DEIS need to extend beyond individual WAAs, and consider the significance of the project and cumulative impacts in terms of goshawk viability in a critical portion of its range on the central and southern Tongass.<sup>69</sup> Given this species' low population numbers and known

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<sup>69</sup> This duty falls upon the management level of this project because the 2016 LRMP Amendment did not reexamine the LRMP's conservation strategy in light of new information.

distribution, the cumulative effects determinations need to consider three relevant spatial scales: regional, central southeast Alaska island ecosystems, and the cumulative effects on a small and vulnerable population of logging in one or more active known nest areas (which we suspect is likely under the present vague NOI for this expansive project). Analysis at relevant spatial scales is particularly important in light of the ESA listing of the QCG in Canada because of the metapopulation structure of QCGs and because of conclusions that contributing populations in British Columbia have declined — indicating increased risk to the metapopulation.

Dr. Smith recently explained that “further logging of north POW will further reduce essential habitat for breeding QCGs and increase the risk of extirpation of the POW subpopulation of QCG, which ultimately increases the risk of extinction of the already threatened DPS (USFWS 2007).” [Exh. 27 at 5]. Thus, the DEIS also needs to consider the implications of recent and proposed land conveyances on POW for Sealaska and the Alaska Mental Health Trust, and how a substantial increase in private land logging – in combination with the Big Thorne Project, recent Logjam Project, and planned increases in state logging in POW, its archipelago and the region – would affect the viability of the species.

In sum, the cumulative effects analysis in the DEIS must consider how the Prince of Wales timber project, in combination with recent and planned projects that log in the vicinity of PFAs and foraging areas associated with known historical nest sites throughout southeast Alaska, threatens QCG viability in light of the low population of the species, and the importance of individual breeding pairs in the project area to the broader persistence of the species.

**5. Address TLMP mandates for sensitive species by developing adequate mitigation and alternative management measures for QCG nests**

TLMP standards which provide that “[s]pecial consideration should be given to the possible adverse impacts on habitat of sensitive, threatened and endangered species.” [2008 TLMP at 4-89]. We request consideration of mitigation/alternative nest management measures as required by the TLMP, such as increased buffers for nests and increased forest structure retention requirements in the vicinity of known goshawk nests. The analysis should demonstrate this special consideration of goshawk habitat and viability by doing more than simply providing broad measurements of POG reductions, and instead include a habitat quality analysis that takes into account all available information on differential utilization of various forest types and structures.

During the 2008 TLMP Amendment process, ADF&G, the FWS, and the Forest Service’s Pacific Northwest Research Station each recommended, at a minimum, a 500-acre buffer as needed to minimize risks to QCG nests. The TLMP required the Responsible Official to “[c]onsider surrounding landscapes when managing for goshawk nest sites” and provide for alternative nest management measures as appropriate. [TLMP at 4-99]. This project area, with its high levels of past logging and fragmentation, exemplifies the type of landscape that requires alternative nest management measures in order to adequately implement the Forest Plan guideline.

## **6. Provide survey and nesting data for QCGs, and evaluate nest and breeding failures**

In the DEIS, please disclose the location of any known nests (current or historical) and any other observations of goshawk habitat use, including information about foraging habitat. For example, in another area in the range of the QCG, our review of Wrangell Ranger District EAs and other analyses raise serious concerns about QCG breeding and nesting failures on the Wrangell Island. [Exh. 35 at 16, 28, 33].<sup>70</sup> The POWLLA DEIS should include a discussion of possible reasons for such failures. Please also indicate how many surveys have been conducted in the POWLLA project area and describe the survey methodologies.

### **D. Impacts to Black Bear Abundance and risks**

Over half of the black bear habitat capability has been lost to logging on the northern half of Prince of Wales Island.<sup>71</sup> Please address the following issues in your analysis of project impacts to the black bear MIS:

- (1) Disclose impacts to high value bear habitat — low-elevation, old-growth forest with abundant and productive salmon streams. [*Id.*] Please discuss how much summer black bear habitat and denning habitat will be lost because of this project.
- (2) Discuss project's impacts in terms of human caused disturbances to bears, particularly those related to roads and summer habitat loss and thinning activities near streams during spawning season.
- (3) In its most recent black bear management report for GMU2, ADF&G said:

Although there are abundant healthy and productive habitats, more clearcut logging has occurred in Unit 2 than in [any] other Southeast Alaska (Southeast) black bear area. Counting national forest and private lands, the Alaska Department of Fish and Game (ADF&G) estimates about 475 mi<sup>2</sup> of forested black bear habitat in Unit 2 has been cut during the past 65 years, including over 40% of the old-growth forest once found in Unit 2. Logging-associated road building in Unit 2 has created the highest density of roads in Southeast, with more than 2,500 miles of drivable roads on national forest land and additional large tracts of road on private Native corporation lands. Only a few roads have been closed after logging operations finish, as required by the 1997 Tongass Land Management Plan (TLMP, USFS 1997). The recently enacted Access Travel Management Plan (ATM) by the USFS will close 150 miles of road to highway vehicles and convert an additional 222 miles from highway vehicle use to off highway vehicle (OHV) use only (USDA 2009). As a result of more than 40 years of large-scale clearcut logging, habitat changes continue to occur. Although early seral stages (3–20 years postlogging) provide black bears with abundant plant foods, later stages result in the disappearance of understory as conifer canopies close and

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<sup>70</sup> Exh. 35 is the 1998 Wrangell Island Landscape Assessment.

<sup>71</sup> See, e.g. Ex. 36. Albert & Schoen 2007, "A Conservation Assessment for the Coastal Forests and Mountains Ecoregion of Southeastern Alaska and the Tongass National Forest," at 23 and table on 24.

light does not penetrate to the forest floor. Second-growth stands also lead to the decline of large hollow trees and root masses important for denning. We believe that, although logging may create food for bears in the short term, the long-term result will be a decline in bear numbers in Unit 2 (Suring et al. 1988). ... [A] better, more conservative approach is to use the lower end of Peacock's 95% Confidence interval (1.8 bears/mi<sup>2</sup>), which gives an estimate of 6,480 bears. We currently estimate the Unit 2 black bear population to be lower than that as the population appears to be depressed from highs seen in the 1990's and early 2000's. Plausible reasons for this decline include overharvest coupled with loss of habitat due to extensive logging in the unit over the past 50 years. ... We are likely also beginning to see the effects of reduced carrying capacity for bears in the Unit as extensive tracts of clearcuts grow into sterile, stem-excluded second growth forests. Other factors that managers must consider are wounding loss and illegal kills. Fifty percent additional mortality in 2005 (which the department suspects may be reasonable on POW based on radio collared bears) would bring the harvest to nearly 750 bears, which is very close to the simulation model's number of 767 bears as the maximum sustainable harvest for that year [ *Exh. 21, ADF&G Black bear management report for Unit 2, July 2010 to June 2013, at 5-1, -2, -7 and -9* ].

HABITAT Assessment. Timber harvest continues to pose the most serious threat to black bear habitat in the unit. Post logging increases in berry production, primarily *Vaccinium* spp., may contribute to short-term bear population growth. This new forage source will be lost as the canopy closes, as will habitat diversity associated with old-growth forests. We are also concerned with the loss of denning structures associated with the loss of trees. Logging removes valuable den trees. Bears do continue to use dens in stumps, but these structures will decay over time. Roads associated with logging increase human access and can make bears increasingly vulnerable to harvest. ... The long-term effects of extensive clearcut logging will be detrimental to black bear populations in this unit. We may very well have reached the peak of bear suitability in Unit 2 as most of the areas previously clearcut are now reaching the closed canopy stage of forest succession. Several proposed large federal timber sales along with some state timber sale offerings will further reduce long term bear carrying capacity in Unit 2. [ *Id. at 5-13* ].

Conclusions and recommendations. ... As logging continues, and large tracts of previously logged habitat rapidly convert to second-growth forest, we anticipate reductions in the carrying capacity for Unit 2 bears. [ *Id. at 5-14* ].

- (4) Discuss current trends in black bear abundance in GMU2 and disclose indicia of the population and analyze the extent to which intensive habitat alteration caused by logging may reduce carrying capacity for bears in the foreseeable future, from past and on-going logging and other changes in bear habitat.

- (5) Evaluate the recommendations of the recent studies on the importance of riparian buffers to bear populations.<sup>72</sup> The TLMP does not delineate specific buffers for black bear but does direct that riparian buffers be increased from the standard buffer to 500 feet in important brown bear foraging areas. Black bear are more secretive than brown bear and should receive additional protection. The availability of spawning salmon as a food resource is a major influence on bear habitat quality and bears have the highest vulnerability to human activities in low elevation riparian areas during summer months.
- (6) Consider enhanced 500 foot riparian buffers for bear as a project mitigation measure - the DEIS should clarify whether class I streams will have only the minimum 100 foot buffer or whether black bear foraging areas will receive additional protections pursuant to 2008 TLMP guidance and the recommendations of regional bear experts. Wildlife experts recommend implementation of the 500 foot buffer for bears on both sides of class I streams regardless of whether or not there have been project field observations of an absence of anadromous fish.

***E. Comments regarding the Conservation Strategy: Fragmentation, Connectivity and OGRs***

Please include in the DEIS a discussion of the TLMP inter-agency recommendations for a project area old growth reserve network. This information is important for the public to understand project level impacts to wildlife. If the existing OGRs differ from the interagency recommendations, the DEIS should provide a map that compares the interagency recommendations to the existing OGRs.

***VI. Conclusion***

We request that you cancel planning on this project because of risks to the environment and the local and regional economies, particularly with regard to fish and commercial fishing, and wildlife species such as deer, wolves, bear and Queen Charlotte goshawks. If you proceed with this project, we request that you significantly reduce the timber volume in the proposed action, and consider strong mitigation measures to address adverse environmental and economic impacts.

***Signature***



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<sup>72</sup> Since the region's black bear have not been adequately studied but have some habitat use traits similar to brown bears, see Exh. 32: Flynn, R.W.; S.B. Lewis; R.B. LaVern & G.W. Pendleton (2007). "Brown bear use of riparian & beach zones of N.E. Chichagof Island: Implications for Streamside Management in Coastal Alaska." Alaska Dept. of Fish & Game, Douglas, Alaska.

## **Attachment — List of cited and submitted exhibits**

Exhibits 1 – 33 were mailed on a DVD disk today, August 7. Exhibits 34 – 36 will be submitted via the project website with these comments.

Exh 1\_PEER\_1996\_Stealing the Tongass - Playing by Alaska rules in the US Forest Service.pdf  
Exh 2\_Tonka DXPRE Post\_Harvest Monitoring\_4\_3\_17 (OCR'd).pdf  
Exh 3\_Nurse\_memo\_\_31May17 (1).pdf  
Exh 4\_POWLAT materials on the POWCAC website, March 2016 through June 2017 (webpage).pdf  
Exh 5\_NFF & Forest Service announce \$136,000 in grants (PR)\_9may16.pdf  
Exh 6\_POW LAT Final Package June 2017.pdf  
Exh 7\_Signup lists from Jan, Feb & March 2017 POWLAT meetings.pdf  
Exh 8\_Big Thorne FEIS Volume-1\_\_Chapter 3 (Complete)\_unlocked.pdf  
Exh 9\_Southeast Alaska Economic Plan\_2020\_Final.pdf  
Exh 10\_POWLAT\_2016\_\_Tongass Young Growth Symposium 2 - Post-meeting briefing\_Sept 2016.pdf  
Exh 11\_Person\_ & Brinkman\_2013\_\_Succession Debt and Roads - Effects of Timber Harvest, SE-Ak .pdf  
Exh 12\_Person\_2013\_\_1st declaration, Big Thorne project.pdf  
Exh 13\_Person\_2014\_\_2nd declaration, Big Thorne project.pdf  
Exh 14a\_ADF&G\_2014\_Compilation of Unit 2 EO correspondence & calls with Greenpeace\_17Mar to 14May14.pdf  
Exh 14b\_Management\_Emergency Closure (2014)\_Analysis of Illegal Take of POW Wolves\_\_Edwards\_29Mar14.xlsx  
Exh 15\_SE wolves on agenda\_\_KDN\_14Mar17.pdf  
Exh 16\_Comments to FSB on WP 18-04, for August 2017 FSB meeting.pdf  
Exh 17\_Transcripts of March 2017 Southeast Subsistence RAC.zip  
Exh 18\_Interagency\_2017\_\_Wolf Habitat Management Program - Recommendations for Game Management Unit ...  
Exh 19\_USFWS\_2015\_\_AAwolf Species Status Assessment\_Final (ESA ROD record).pdf  
Exh. 20\_ADF&G\_2015\_\_Deer management report of survey-inventory activities, Unit 3, July 2012 to June...  
Exh. 21\_ADF&G\_2014\_\_Black bear\_2014\_chapter\_5\_unit\_2\_unlocked.pdf  
Exh. 22\_QCG Recovery Team (2008) Recovery strategy for northern goshawk in BC.pdf  
Exh. 23\_Smith\_2013\_\_Spatially explicit analysis of Cons Strategy, on sustaining NoGo habitat.pdf  
Exh. 24\_Doyle (2005) Breeding success of the goshawk on Haida Gwaii - Is pop still declining.pdf  
Exh. 25\_Presentation #7\_\_CSR Workshop 20016\_Goshawk-Local New Info.pdf  
Exh. 26\_Iverson (1996)\_GTR-387 QCG (572\_1148).pdf  
Exh. 27\_QCG status review\_\_USFWS\_2007.pdf  
Exh. 28\_McClaren et al 2005\_Goshawk PFA Vancouver.pdf  
Exh. 29\_W. Smith\_2012\_\_BT DEIS comments on Flying Squirrel & QCG.pdf  
Exh. 30\_Sonsthagen et al 2012.pdf  
Exh. 31\_South Lindenberg FEIS\_\_pages on QCG.pdf  
Exh. 32\_Flynn et al 2007-Brown bear riparian Final Report\_\_30Apr07.pdf  
Exh. 32\_Sitnews 2012.pdf  
Exh. 33\_Economic Trends 2012.pdf  
Exh. 34\_Alexander (2011)\_\_706(b) Rept\_Status of the TNF for 2007 (R10-MB-747).pdf  
Exh. 35\_1998\_wrangell\_island\_landscape\_assessment-WRD.pdf  
Exh. 36\_Albert\_ & Schoen\_2007\_\_Conserv Assessment - Coast Forests & Mtn Ecosys of SE-Ak.pdf