

Planning Rule Federal Advisory Committee

Public Comments

September 11-13, 2012

The Forest Service received one written comment during the first meeting of the federal advisory committee from:

Sealaska

All comments are displayed on the following pages.



September 7, 2012

SENT VIA EMAIL

Jennifer Helwig
USDA Forest Service
Ecosystem Management Coordination
jahelwig@fs.fed.us

SUBJECT: Written Statement of Related Matters for the National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule ("Committee") September 11-13, 2012 Meeting

Dear Ms. Helwig:

Sealaska Corporation ("Sealaska") would like to bring to the attention of the Committee related matters for the Committee and Forest Service to consider and address at the above referenced Committee Meeting scheduled for September 11-13, 2012 in Washington, D.C. ("Meeting"). This written statement regarding related matters responds to the Notice published in the August 23, 2012 Federal Register for the Meeting, providing for such statements to be submitted to your attention via email. 77 Fed. Reg. 50985 (Aug. 23, 2012).

Sealaska's Interests in the National Forest Planning and Management and Planning Rule Implementation:

As we have set out in our May 16, 2011 comment letter regarding the proposed Planning Rule and in other correspondence, Sealaska Corporation is the Regional Corporation for Southeast Alaska established under the Alaska Native Claims Settlement Act ("ANCSA"), the purpose of which is a fair and just settlement of Alaska Native land claims in conformity with the real economic and social needs of Alaska Natives. Sealaska represents approximately 20,000 Tribal member shareholders, including 10,000 families living in Alaska. Our shareholders are descendants of the original Tlingit, Haida, and Tsimshian inhabitants of Southeast Alaska, and our people have been stewards of the lands and waters of Southeast Alaska for the past 10,000 years. These lands and waters, including the land now managed as the Tongass National Forest, are our ancestral and traditional homeland and the foundation of our history and culture.

As we have also explained in more detail in our comment letter and other correspondence, Sealaska is the largest nonfederal and Native Corporation owner of forest lands adjacent to the Tongass, the nation's largest national forest. We are a cultural and civic leader through the Sealaska Heritage Foundation and other avenues. We are also a leader in renewable energy and other community initiatives as well as a major employer and contributor to the Southeast Alaska forest industry and broader economy. Sealaska continues to work with the Secretary of

Agriculture, Forest Service, and in the Congress on legislation to resolve and complete Sealaska's ANCSA land entitlement in a configuration that is environmentally, economically, and culturally sustainable. Sealaska has strong interests and concerns regarding the Forest Service Planning Rule and its implementation, as well as the land and resource management plan ("forest plan") for the Tongass. We have actively participated in the rulemaking process for the Forest Service proposal to update the Planning Rule, including contributing to numerous collaborative meetings and consultation efforts as well as comment letters throughout the process to date.

Sealaska has continuing strong concerns about the legality, workability, affordability, and other aspects of the Final Planning Rule as published in the April 9, 2012 Federal Register, 77 Fed. Reg. 21162-21276 (April 9, 2012). It remains to be seen whether this new, revised Planning Rule can be implemented consistent with the needs of major adjacent landowners like Sealaska and the multiple use and sustained yield of goods and services for the benefit of Alaska Natives, communities and local and regional economies that are dependent upon these national forest resources. It also remains to be seen how and to what extent the Forest Service will use the Committee as a genuine source of insights and advice regarding implementation. However, we believe that the Committee has the potential to serve an important, constructive role, and submit this statement in that spirit.

The comments about related matters in this statement are by no means exhaustive. They represent a few points that Sealaska wants to offer for consideration at the September 11-13 meeting in an effort to be helpful.

Related Matters for the Committee and Forest Service to Consider and Address:

1. The need for Alaska Natives and other Alaskans to be represented on the Committee

Because Sealaska remains vitally concerned about the Planning Rule and its implementation, we timely nominated a well-qualified Alaska Native representative to serve on the committee. This nomination was supported by the Alaska Federation of Natives among others. However, not only was Sealaska's nominee not chosen for Committee membership, there is to our knowledge no other current Alaska Native or Alaska resident among the 21 initial Committee members selected by the Administration.

This is a serious omission in the membership of the Committee. The Tongass and Chugach National Forests in Alaska are the two largest national forests in the National Forest System, and comprise approximately ten percent of the total acreage in the National Forest System. The Forest Service has chosen the Chugach as one of the initial pilot national forests to attempt to complete a revision of the forest plan according to the new Planning Rule provisions. Yet we are aware of no Alaska presence on the Committee.

There is fact apparently only a single Tribal representative among the initial Committee membership—Mr. William Barquin of the Kootenai Tribe of Idaho. We fully endorse and support Mr. Barquin's membership on the Committee. However, presuming that any single

person can try to represent the perspectives of the large number and diverse array of Tribes nationwide, much less Alaskans, is far too much to ask.

We believe that the committee and Forest Service therefore should pursue adding at least one Alaska Native representative to the Committee as soon as there is an opportunity to do so. In the interim, we request that the Committee and Forest Service address effective ways for Alaska Natives and other unrepresented stakeholders to participate in Committee meetings and formulation of Committee advice to the agency, whether that be through public comment or question and answer sessions, or other means.

2. The scope and initial tasks of the Committee should include recommendations for changes in the Planning Rule.

The legality of the Final Planning Rule under the National Forest Management Act and other laws is sufficiently controversial to have already been the subject of a lawsuit recently filed in the federal district court for the District of Columbia, brought by the Federal Forest Resource Coalition and others who support multiple use and sustained yield use of the national forests under established statutory authority. Irrespective of this lawsuit and legality, the Final Planning Rule contains numerous complex and as yet untested provisions that may prove very problematic to implement.

Various members of the Committee are likely to have valuable insights and suggestions for particular further changes to the Planning Rule that would improve and facilitate implementation. While the Forest Service and Administration may not be receptive to major further revision of the Planning Rule at this point, there may be refinements that would simplify, clarify, or otherwise ease implementation and which have sufficiently broad support to circulate for Native Corporation and Tribal consultation and public comment soon, based on Committee advice. There is no reason for the Forest Service and Administration not to listen and learn from advice about more substantial beneficial changes that members of the Committee may want to share.

3. The scope and initial tasks of the Committee should include review and advice to the Forest Service regarding Directives for Planning Rule implementation.

The Final Planning Rule still leaves many specifics and details of implementation to be further delineated in Forest Service Manual and Handbook updates or similar agency "Directives." It is our understanding that the Forest Service already intends to ask the Committee for assistance in the form of review and advice regarding Directive material that the agency is in the process of drafting.

Committee review and advice regarding these Directives is no substitute for consultation with Native Corporations and Tribes and other stakeholder participation in development of this agency guidance. Draft Directives must be the subject of early, meaningful Native Corporation and other consultation and public comment. However, we believe that Committee review and advice will be a useful contribution to Directive development, and suggest that this be an important, priority initial task for the Committee.

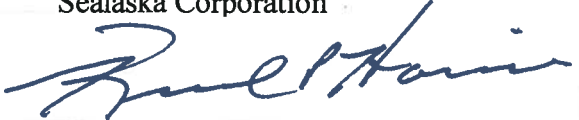
4. Committee review and advice cannot substitute for consultation with Sealaska and other Native Corporations and Tribes.

The Administration and Forest Service of course remain obligated under federal statute and Executive Order to engage in meaningful and early direct consultation with Sealaska and other interested Native Corporations as well as Tribes regarding Planning Rule implementation issues of concern. We have consistently pointed this out in our comments on the proposed Planning Rule and other correspondence, and the Administration and Forest Service have acknowledged this in the rulemaking process. As already indicated above, Sealaska believes that the Committee can serve a useful and productive role regarding Planning Rule implementation, but we simply emphasize here that it is by no means exclusive and cannot substitute for the federal government's consultation obligations.

If you have any questions about the points in this statement, please contact Bob Maynard, our consultant who has been assisting Sealaska with Planning Rule concerns, at (208)-343-3434. Mr. Maynard plans to attend at least part of the September 11-13 meeting to observe and be available for any public question and answer or comment sessions provided.

Sincerely,

Sealaska Corporation



Richard P. Harris
Executive Vice President

Cc: Jaeleen Araujo, VP & General Counsel, Sealaska Corporation
Chris McNeil, President and CEO, Sealaska Corporation
Terry Downes, Chief Operating Officer, Sealaska Corporation
Sassa Kitka, Special Assistant to President & CEO, Sealaska Corporation
Ron Wolfe, NR Manager, Sealaska Corporation
Wade Zammit, President, Sealaska Timber Corporation
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Owen Graham, Executive Director, Alaska Forest Association
Jacqueline Pata, Executive Director, National Congress of American Indians
Julie Kitka, President, Alaska Federation of Natives
Beth Pendleton, Regional Forester, USDA Forest Service
Rick Rogers, Executive Director, Resource Development Council
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