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Report to the Chairman, Committee on Energy and Natural Resources, U.S. Senate

April 2000

TONGASS NATIONAL FOREST

Process Used to Modify the Forest Plan

Accountability * Integrity * Reliability

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Abbreviations

ANILCA	Alaska National Interest Lands Conservation Act
NEPA	National Environmental Policy Act
NFMA	National Forest Management Act
VPOP	viable population

United States General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-284340

April 17, 2000

The Honorable Frank Murkowski
Chairman, Committee on Energy
and Natural Resources
United States Senate

Dear Mr. Chairman:

The Tongass National Forest (Tongass) in southeast Alaska is unlike any other national forest. It is larger; its administrative and geographic structures differ; and although it is subject to the same laws that apply to other national forests, it has also had laws written specifically for it.

Like the other national forests, the Tongass is required by law to develop a plan to manage its lands and resources (commonly called a forest plan) and to revise the plan at least every 15 years. On average, the revision process is estimated to take 4 years and to cost about $3 million.

The Department of Agriculture's Forest Service approved the first Tongass forest plan in 1979, and in July 1987, the agency began the process to revise it. Almost 10 years and over $13 million later, in May 1997, the Forest Service approved a revised forest plan to manage the Tongass's lands and resources. Interested and affected parties subsequently appealed the plan within the 90 days provided for appeals under the agency's planning regulations. In April 1999, the Department of Agriculture's Under Secretary for Natural Resources and Environment approved modifications to the management direction in the 1997 plan to address certain concerns raised in the appeals and decided the appeals on the basis of the modified plan.

As agreed, this report discusses (1) the process used by the Department of Agriculture to modify the management direction in the 1997 plan and decide the appeals on the basis of the modified plan, (2) the reasons the administration chose to use the process, and (3) reactions to the modifications and the process. Appendixes I and II provide additional information about the processes leading up to the May 1997 plan and the April 1999 modifications, respectively.

Results in Brief

The Department of Agriculture's Under Secretary for Natural Resources and Environment used a unique process to approve modifications to the management direction in the 1997 Tongass forest plan and decide appeals on the basis of the plan, as modified. According to the Forest Service, it is not unusual for an Under Secretary to review, and on occasion direct the Chief to modify, appeal decisions. However, this was the first time that an Under Secretary approved substantive modifications to a forest plan and issued initial appeal decisions based on the plan, as modified.

The Department of Agriculture's Under Secretary for Natural Resources and Environment said he approved modifications to the management direction in the 1997 Tongass forest plan to address certain concerns raised in appeals of the plan and decided the appeals on the basis of the modified plan for two reasons. First, he approved the modifications because he believed he could "make a good plan better." According to the Under Secretary, he believed he improved the 1997 Tongass plan by addressing three interrelated concerns: (1) old-growth forest and the species that depend on it for habitat; (2) lands and resources used for subsistence hunting, fishing, trapping, and gathering by rural Alaskans; and (3) areas of special interest valued for ecological, recreational, subsistence, cultural, spiritual, and/or scenic purposes. His modifications—each of which was designed to increase the protection of old-growth forest, subsistence uses, and areas of special interest—included (1) removing another 234,000 acres from timber harvesting and other development activities, (2) increasing from 100 years to 200 years the time that must elapse between timber harvests on the same location on about 40 percent of the Tongass where timber harvesting is allowed, and (3) decreasing the open road density in areas where roads have been determined to significantly contribute to wolf mortality. According to the Under Secretary, the second reason he chose to approve modifications to the management direction in the 1997 plan and decide the appeals on the basis of the modified plan was to end the appeals process as quickly as possible. Other options for addressing the concerns—such as returning the plan to the forest to address the concerns or approving the 1997 plan and beginning a new process to amend the plan—would have taken more time, according to the Under Secretary.

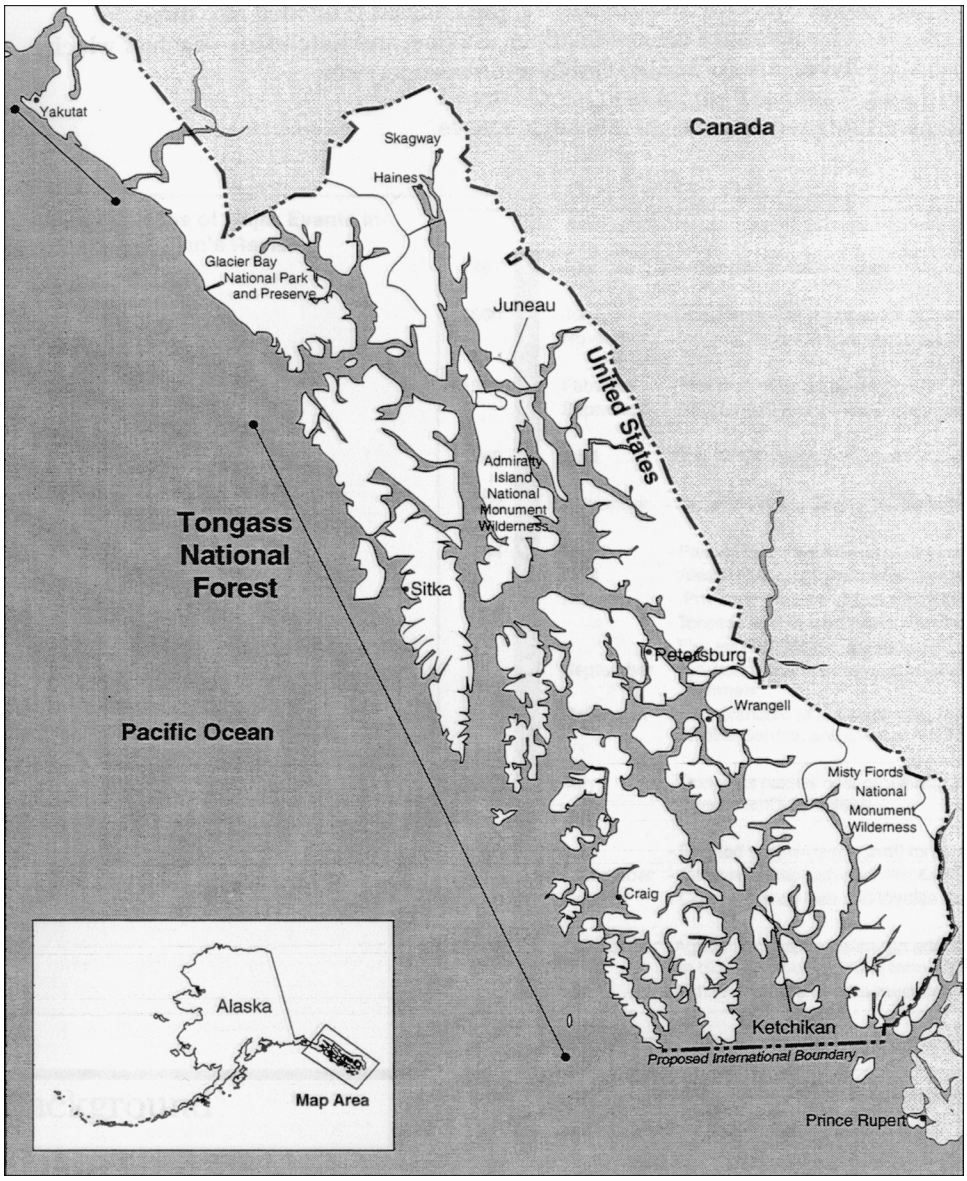
Interested and affected parties have raised concerns about both the modifications to the management direction in the 1997 plan and the process used to approve the modifications and decide the appeals. These concerns are related to the trade-offs among competing forest uses inherent in the modifications and the trade-off between ending the appeals

process as quickly as possible and providing opportunities for additional public participation and further scientific analysis. Both the modifications and the process are now in litigation.

Background

At 16.9 million acres, the Tongass is the largest forest in the United States, roughly equal in size to West Virginia (see fig. 1), and the largest remaining temperate rain forest in the world. About 60 percent of the Tongass is forested. Of the forested portion of the Tongass, the Forest Service considers over half, or 5.7 million acres, to be “productive”—that is, suitable for providing wood products.

Figure 1: Tongass National Forest



Source: Forest Service's Alaska Region.

The Forest Service's Alaska Region (Region 10), headquartered in Juneau, is responsible for managing the Tongass and Alaska's other national forest, the Chugach. A forest supervisor has specific responsibility for the

Tongass. Because the Tongass is so large, it, unlike other national forests, is divided into three administrative areas, and the Tongass forest supervisor is assisted by two assistant forest supervisors. The Forest Service manages the Tongass to provide for multiple uses, such as timber, opportunities for outdoor recreation, and healthy habitat for fish and wildlife.

The Forest Service's Planning Process

The National Forest Management Act (NFMA) of 1976 requires the Forest Service to, among other things, (1) develop a plan to manage the lands and resources of each national forest in coordination with the land management planning processes of other federal agencies, states, and localities and (2) revise each plan at least every 15 years. The Forest Service's planning regulations establish detailed procedures for developing a forest plan, which require the agency to develop several alternatives for managing a forest and make these alternatives available for public comment.[1] Under the regulations, an environmental impact statement developed in accordance with the National Environmental Policy Act of 1969 (NEPA) must accompany each forest plan. An environmental impact statement assesses the effects of a major federal action that may significantly affect the quality of the human environment.

To develop a plan, a forest supervisor first forms an interdisciplinary team, which identifies management issues on the forest in consultation with the public, as well as with state, local, and tribal governments. After the team develops alternatives for managing the forest, the forest supervisor selects a preferred alternative and submits the draft plan and environmental impact statement to the public for comment. Following a review of the comments, the forest supervisor presents a final plan and environmental impact statement to the regional forester for approval.

Once the regional forester approves the plan, the Forest Service's appeals regulations allow the plan to be appealed to the Chief of the Forest Service within 90 days. The Chief must decide all administrative appeals within 160 days of the date the last appeal was filed. The Chief's decision shall, in whole or in part, affirm or reverse the regional forester's decision and may include instructions for further action by the regional forester.

[1]See app. I of *Forest Service Decision-Making: A Framework for Improving Performance* (GAO/RCED-97-71, Apr. 27, 1997) for a more detailed discussion of the agency's planning process.

According to federal regulations, the Chief's appeal decision must generally be based on the administrative record for the forest plan and on the arguments and comments submitted by the appellants. The Chief may ask for additional information from any appellant or from the regional forester, but all appellants must be notified of such requests and given an opportunity to comment. The regulations thus prohibit "ex parte" contact—that is, contact, except as specified in the regulations, between the Chief and any agency officials who developed the forest plan or any appellants without notifying all appellants. These regulations also apply to intervenors—those who are potentially adversely affected by an appeal and have submitted a timely request to intervene.

Once the Chief has decided the appeals, the Secretary of Agriculture generally has 15 days to exercise his or her discretion to review the Chief's decision and notify all participants that the decision is being reviewed. The Secretary has delegated this responsibility to the Under Secretary for Natural Resources and Environment. The discretionary review must be completed within 30 days of the notice's issuance. The review must be based on the existing appeals record and the Chief's decision, not on any newly obtained information, according to federal regulations. The regulations do not identify the Under Secretary's options for ending the appeals process; however, the Under Secretary's decision cannot be administratively appealed.

On October 5, 1999, the Forest Service proposed new planning regulations.[2] Although the proposed regulations were not developed specifically to address the process used to modify the management direction in the 1997 Tongass forest plan, it is unlikely, if the regulations are finalized, that this process will be used again. The proposed regulations would replace the agency's postdecision forest plan appeal and discretionary review process with a predecision objection process. Under the new process, the agency's regional foresters—rather than the Chief of the Forest Service–would make the final decisions on objections to proposed revisions to forest plans, and forest supervisors—rather than the regional foresters—would approve the plans.

[2]64 *Fed. Reg.* 54074 (Oct. 5, 1999).

Laws Unique to the Tongass

The Alaska National Interest Lands Conservation Act (ANILCA) of 1980 and the Tongass Timber Reform Act of 1990 apply specifically to the Tongass. Under ANILCA, no withdrawal, reservation, lease, disposal or other use of such lands that would significantly restrict subsistence uses shall be effected until the relevant land management agency determines that (1) the restriction is consistent with land management principles, (2) the restriction will involve the minimum amount of land necessary, and (3) action will be taken to minimize the restriction's adverse effects on subsistence uses. ANILCA also authorized special funding for the Tongass to maintain the timber supply at a minimum of 4.5 billion board feet per decade[3] and exempted the Tongass from a NFMA provision restricting timber harvesting on lands identified as unsuitable for harvest.

The Tongass Timber Reform Act of 1990 repealed ANILCA's special timber supply funding provision and made the Tongass generally subject to NFMA's provision restricting timber harvesting on lands identified as unsuitable for harvest. Under the act, the Forest Service must seek to meet the market demand for timber annually and over the 15-year planning cycle, consistent with existing law, appropriations, and the provision of multiple uses and the sustained yield of all forest resources. "Multiple use" means managing forest resources so that they are used in the combination that best meets the needs of the American people. "Sustained yield" means achieving a high-level annual or regular, periodic output of forest resources without impairing the productivity of the land. The Tongass Timber Reform Act also limited timber harvesting near certain streams and made nine modifications to long-term timber sale contracts between the Forest Service and private parties, including additional provisions to prohibit the disproportionate harvesting of high-volume old-growth timber. Large, tall trees that are valuable for both wildlife habitat and timber production most often characterize old-growth forest. Densely canopied, loosely spaced trees and a floor punctuated by woody debris provide a unique habitat for plants and wildlife, including the marten, hairy woodpecker, brown creeper, and marbled murrelet. The large size of the trees also makes them valuable for harvesting as timber.

[3]A "board foot" is a unit of measurement for timber equaling the amount of wood contained in an unfinished board 1 inch thick, 12 inches long, and 12 inches wide.

The Process Used to Modify the Tongass Forest Plan and Decide the Appeals Was Unique

The Department of Agriculture's Under Secretary for Natural Resources and Environment used a unique process to approve modifications to the management direction in the 1997 Tongass forest plan to address certain concerns raised in appeals of the plan and decide the appeals on the basis of the plan, as modified. According to the Forest Service, it is not unusual for an Under Secretary to review, and on occasion direct the Chief to modify, appeal decisions. However, this was the first time that an Under Secretary approved substantive modifications to a forest plan and issued initial appeal decisions based on the modified plan.[4]

The Tongass plan, signed in 1979, was the first forest plan approved under NFMA. From 1979 through 1995, 122 additional plans covering the remaining 154 national forests were approved. As of July 1999, 11 of the 123 plans had been revised. All but 1 of the 134 original and revised forest plans have been appealed. Decisions have been reached on 127 of the appealed plans. Decisions have not been reached on the remaining 6 plans.

Of the 127 plans on which appeal decisions have been reached, the Chief of the Forest Service, in whole or in part, affirmed 119 and reversed 7. The reversals may have included instructions for further action by the regional forester. The Under Secretary approved substantive modifications to the remaining plan (the Tongass plan) to address certain concerns raised in appeals and simultaneously issued initial appeal decisions based on the modified plan.

[4]An ecoregional plan signed by the Secretaries of Agriculture and the Interior in April 1994 amended the forest plans for 19 national forests in the Pacific Northwest. However, the ecoregional plan was the result of a presidential initiative to address federal court injunctions, not a resolution of administrative appeals. See *Ecosystem Planning: Northwest Forest and Interior Columbia River Basin Plans Demonstrate Improvements in Land-Use Planning* (GAO/RCED-99-64, May 26, 1999).

The Under Secretary Modified the Plan to Address Certain Concerns and Quickly End the Appeals Process

The Department of Agriculture's Under Secretary for Natural Resources and Environment said he approved modifications to the management direction in the 1997 plan and decided the appeals on the basis of the modified plan for two reasons. First, he approved modifications to the management direction in the 1997 plan because he believed he could "make a good plan better" by increasing the protection of old-growth forest, subsistence uses, and areas of special interest. Second, he decided the appeals on the basis of the modified plan because he wanted to end the appeals process as quickly as possible.

The three concerns addressed by the Under Secretary–(1) old-growth forest and the species that depend on it for habitat; (2) lands and resources used for subsistence hunting, fishing, and gathering by rural Alaskans; and (3) areas of special interest valued for ecological, recreational, subsistence, cultural, spiritual, and/or scenic purposes—were addressed in developing the 1997 Tongass forest plan. The Forest Service spent 10 years and $13 million developing a legally defensible and scientifically credible plan to sustain the Tongass's resources. (See app. I.) The process included numerous opportunities for public review and comment, numerous studies and peer reviews of ecological and socioeconomic issues, several assessments by panels of experts and scientists that were convened and reconvened to evaluate the risks to particular wildlife species under proposed management alternatives, and direct involvement by federal regulatory agencies. A Forest Service report concluded that the 1997 Tongass forest plan "achieved a high degree of consistency with the available scientific information" and acknowledged and documented the risks to forest resources. According to the former regional forester for the Alaska Region who approved the 1997 Tongass plan, the plan is legally defensible, scientifically credible, and able to sustain the forest's resources.

Thirty-three appeals were filed on the 1997 Tongass plan. The appeals raised many of the same ecological and socioeconomic concerns that had been studied and restudied in the process of developing the 1997 plan. A Forest Service team, which reviewed the appeals, drafted a set of appeal decisions. With one minor exception, the decisions responded to the appellants' concerns by affirming the 1997 plan. This set of decisions was approved by the Department of Agriculture's Office of General Counsel and sent to the Chief's office for his signature.

A Forest Service team consolidated the 33 appeals into 19 draft appeal decisions. Forest Service officials familiar with the agency's appeals

process expected the Chief to sign the appeal decisions affirming the 1997 plan, but he never did. Instead, officials within the Chief's office and the Department of Agriculture identified four interrelated concerns that they felt were not adequately addressed in the 1997 plan: (1) old-growth forest, (2) subsistence uses, (3) areas of special interest, and (4) beach fringe–or the stretch of land extending from the ocean shore inland.

To analyze the concerns and prepare preliminary alternatives for addressing them, the Forest Service assembled a team of scientists and appeals specialists from within the agency. This "review team" was instructed (1) not to contact Forest Service officials in the Alaska Region or the appellants and (2) to limit its review and analysis to the administrative record for the 1997 Tongass plan and the existing appeals record. The team found that these records lacked information for developing preliminary alternatives to increase the protection of beach fringe, so it deleted this concern. However, it found that the records did contain information to change the 1997 plan to better protect old-growth forest, subsistence uses, and areas of special interest, and it developed five preliminary alternatives to reduce the risks to these lands and resources.

The Under Secretary, invoking his discretionary authority to review the Chief's appeal decisions and acting as the Department of Agriculture official delegated the Secretary's authorities for managing National Forest System lands, chose one of the preliminary alternatives developed by the review team. The selected alternative provides the greatest protection to old-growth forest, subsistence uses, and areas of special interest. However, the Under Secretary modified the alternative by increasing the number of areas of special interest from 5 to 18 and deleting certain measures to protect deer and brown bear. His modifications to the 1997 Tongass forest plan (1) removed another 234,000 acres from timber harvesting and other development activities, (2) increased the timber harvest rotation[5] from 100 years to 200 years on about 40 percent of the forest where timber harvesting is allowed, and (3) decreased the open road density in areas where roads have been determined to significantly contribute to wolf mortality.

The Under Secretary then ended the appeals process by deciding the appeals on the basis of the 1997 plan, as modified. According to the Under

[5]Timber harvest rotation refers to the planned number of years between the formation or regeneration of a stand of trees and its final cutting at a specified age of maturity.

Secretary, other options for addressing the concerns–such as returning the plan to the forest to address the concerns or approving the 1997 plan and beginning a new process to amend the plan–would have taken more time.

Concerns Are Related to Trade-Offs Inherent in the Modifications and Process

The Under Secretary's approval of modifications to the management direction in the 1997 plan and decision of the appeals on the basis of the modified plan marked the latest chapter in a controversial, 12-year struggle to develop a plan to manage the Tongass. Interested and affected parties have raised concerns about both the modifications and the process used to approve the modifications and decide the appeals. These concerns are related to the trade-offs among competing forest uses inherent in the modifications and the trade-off between ending the appeals process as quickly as possible and providing opportunities for additional public participation and further scientific analysis. Both the modifications and the process are now in litigation. In the interim, the residents of southeast Alaska who are economically dependent on the Tongass, their communities and elected officials, and regional businesses and organizations live in uncertainty of the forest's future.

Forest plans reflect difficult and often controversial trade-offs among competing forest uses. For instance, by increasing the protection of old-growth forest, subsistence uses, and areas of special interest, the team of Forest Service scientists and appeals specialists—assembled by the agency to analyze the concerns and prepare preliminary alternatives for addressing them—estimated that the 1999 modifications to the Tongass forest plan will reduce the average annual allowable sale quantity of timber[6] in the 1997 plan by 30 percent, from 267 million to 187 million board feet. However, the estimated average annual allowable sale quantity of timber in the forest plan, as modified, is not comparable to the estimate in the 1997 plan. The allowable sale quantity under the 1997 plan was developed by using the Alaska Region's timber harvest planning model. This model had resulted in the "most thorough and accurate analysis ever conducted for forest planning purposes in Alaska," according to the Forest Service. However, team members told us that ex parte concerns precluded them from contacting Forest Service officials in the Alaska Region to obtain data on timber yields on different parts of the forest and from using the Alaska

[6]The "allowable sale quantity" is the maximum quantity of timber that may be sold from an area of suitable land covered by a forest plan over a decade. The quantity is usually expressed on an annual basis as the "average annual allowable sale quantity."

Region's timber harvest planning model in estimating the reduction in the allowable sale quantity attributable to the 1999 modifications. Instead, the team used a rudimentary formula that (1) multiplied the estimated average yield per acre forestwide by the number of acres withdrawn from development and (2) reduced the forestwide estimated average yield per acre to reflect the increase in the timber harvest rotation from 100 years to 200 years on certain parts of the forest. The team then subtracted the reduction in the allowable sale quantity from the allowable sale quantity in the 1997 plan to estimate the allowable sale quantity under the modified plan.

Timber harvesting is now limited to about 3 percent of the forest. Some litigants believe that the modifications approved by the Under Secretary went too far and that the Forest Service will not offer enough timber to meet the market demand for it, in alleged violation of the Tongass Timber Reform Act. Conversely, other litigants believe that the modifications did not go far enough in reducing timber harvests. For example, some litigants allege that the plan, as modified, violates the Tongass Timber Reform Act because it will allow the Forest Service to offer timber in excess of market demand.

The process used to modify the management direction in the 1997 plan is also being challenged. For example, an environmental group has sued the Forest Service, charging that the agency violated its appeals regulations by failing to decide the group's appeal on the Tongass forest plan by the regulatory deadline. In addition, an Alaska timber industry association and a group of southeast Alaska communities have filed suit against the Forest Service, charging, among other things, that the process to revise the Tongass forest plan ended and the 1997 plan became final in 1998, when the regulatory deadlines for deciding appeals and conducting a discretionary review passed. They maintain that the 1999 modifications to the Tongass forest plan therefore constituted a significant amendment to the 1997 plan and that, under the Forest Service's planning regulations,[7] the agency was required to (1) follow the same procedure as that required for the development and approval of a forest plan, (2) prepare a new environmental impact statement in accordance with NEPA, and (3) seek additional public involvement under NFMA and NEPA. The Forest Service, on the other hand, argues that (1) the 1999 modifications were simply the culmination of the plan revision process begun in 1987, (2) the revision did

[7]See 36 C.F.R. § 219.10 (f) and 36 C.F.R. § 219.12 (a).

not become final until the appeals were decided, and (3) all requirements concerning environmental impact statements and public comments were satisfied.

Interested and affected parties have also raised concerns about whether the basis for the modifications was limited to the administrative record for the 1997 forest plan and the arguments and comments submitted by the appellants. For instance, the Alaska timber industry association and a group of southeast Alaska communities assert that in approving the modifications, the Under Secretary relied on a September 1998 draft study of the market demand for Tongass timber that was not part of the appeals record. The Forest Service responded that, while the Under Secretary referred to the study, he did not rely on it in approving the modifications. The litigants also argue that, in approving the modifications, the Under Secretary improperly relied on an interim rule promulgated by the Forest Service on February 12, 1999, which temporarily suspended new road construction into most roadless areas until the agency develops a long-term forest roads policy. According to the Under Secretary, the interim rule provides that for plans in the appeals process, such as the Tongass plan, road construction in unroaded areas can be addressed in the appeal decisions (36 C.F.R. § 212.13).

In addition, litigants argue that the Under Secretary engaged in improper ex parte contacts with certain appellants. According to the Under Secretary, while he had conversations with one of the appellants that are not summarized in the administrative record for the 1999 modifications, he made it clear that he could not discuss modifications to the 1997 Tongass forest plan with the appellant until the modifications had been approved.

Agency Comments

We provided a draft of this report to the Department of Agriculture's Forest Service for its review and comment. In commenting on the draft report, the Forest Service expressed the view that we had not accurately described why the process used to modify the 1997 Tongass forest plan and decide the appeals was unique. According to the agency, it is not unusual for an Under Secretary to review, and on occasion direct the Chief to modify, appeal decisions. What was unique was that this was the first time that an Under Secretary approved substantive modifications to a forest plan and issued initial appeal decisions based on the modified plan. In addition, the agency suggested that we make clear early in the report that because of ex parte concerns, the review team of Forest Service scientists and appeals specialists was instructed not to contact Forest Service officials in the

Alaska Region or the appellants. The team was also instructed to limit its analysis to the administrative record for the 1997 Tongass forest plan and the existing appeals record. We revised the draft report in response to these concerns. We also made technical clarifications to the draft report, as appropriate.

The full text of the Forest Service's comments and our responses are in appendix III.

Scope and Methodology

To examine the process used by the Under Secretary for Natural Resources and Environment to approve modifications to the management direction in the 1997 plan and decide the appeals, we reviewed the available administrative record, including appeals of the plan. In addition, we researched relevant federal legislation and regulations. We also interviewed officials from the Forest Service and the Department of Agriculture who participated in modifying the plan and/or responding to the appeals of the 1997 Tongass forest plan. In addition, we interviewed officials from the Forest Service's Alaska Region and representatives from the office of the Governor of Alaska, environmental groups, and a timber industry group. We conducted our work from June 1999 to March 2000 in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days after the date of this letter. At that time, we will send copies to the Honorable Dan Glickman, Secretary of Agriculture, and the Honorable Michael Dombeck, Chief of the Forest Service. We will also make copies available to others on request.

If you have any questions about this report, please contact me at (202) 512-3841. Key contributors to this assignment were Charles S. Cotton, Angela Sanders, and Richard P. Johnson.

Sincerely yours,

Jim Wells
Director, Energy, Resources,
and Science Issues

Information on the Process Used to Revise the 1979 Tongass Forest Plan

This appendix provides information on the process the Forest Service used to revise the 1979 Tongass forest plan, completed in 1997. Table 1 summarizes the major events in the plan's revision. The remainder of the appendix discusses these events in greater detail.

Table 1: Major Events in the Revision of the 1979 Tongass Forest Plan

Date	Event
1987	
July	Process of revising the original Tongass forest plan begins.
1990	
June	Forest Service releases the draft forest plan for public comment.
November	The Congress enacts the Tongass Timber Reform Act.
1991	
February	Viable population (VPOP) committee sends the first draft of its report to the Forest Service.
September	Forest Service releases a supplement to the draft forest plan for public comment.
1992	
April	Forest Service publishes the draft VPOP report for public review.
1993	
December	Fish and Wildlife Service receives a petition to list the Alexander Archipelago wolf as threatened.
1994	
March	Pacific Northwest Research Station releases the peer review of the VPOP report.
April	Forest Service terminates its contract with the Alaska Pulp Corporation.
May	Chief appoints a new regional forester to the Alaska Region. New regional forester reorganizes the Tongass land management plan team. Fish and Wildlife Service receives a petition to list the Queen Charlotte goshawk as endangered.
September	Forest Service issues an environmental assessment on interim guidelines for public comment.
December	Forest Service, Fish and Wildlife Service, and state of Alaska sign a memorandum of understanding to prevent listing of species on the Tongass as endangered or threatened.
1995	
July	The Congress passes a rider prohibiting implementation of the environmental assessment's guidelines.
1996	
April	Forest Service releases a revised supplement to the draft forest plan for public comment.
September	Court remands Fish and Wildlife Service's decision not to list the goshawk.
October	Court remands Fish and Wildlife Service's decision not to list the wolf.
1997	
February	Administration reaches agreement with the Ketchikan Pulp Company on closure of its pulp mill and termination of its contract.
March	Repaneling of scientists begins.
May	Regional forester approves the Tongass forest plan.
July	Pacific Northwest Research Station issues a report reconciling use of science with policy decisions in the final Tongass plan.
September	Fish and Wildlife Service concludes that listing of goshawk and wolf is not warranted.

The First Tongass Plan Was Approved in 1979

The Tongass was the first national forest to have an approved forest plan under the National Forest Management Act (NFMA). The 1979 Tongass forest plan designated certain areas of the forest off-limits to timber harvesting and scheduled about 1.7 million of the forest's 5.7 million acres of commercial forestland[1] as harvestable. This land was to support an average annual allowable sale quantity of 450 million board feet.

The plan was administered on the Tongass by the forest's three forest supervisors. Because of its size, the Tongass is divided into three administrative areas—Chatham, Stikine, and Ketchikan—each of which has an area office, then headed by a forest supervisor. The Forest Service's Alaska Region, headquartered in Juneau, is responsible for the Tongass and Alaska's other national forest, the Chugach.

In 1980, the Congress passed the Alaska National Interests Lands Conservation Act (ANILCA), which created 14 wilderness areas on the Tongass and designated Admiralty Island and the Misty Fiords as national monuments. Following ANILCA's enactment, the Tongass's commercial forestland was reduced by about 1.7 million acres, from 5.7 million acres to about 4 million acres. In addition, under ANILCA, no withdrawal, reservation, lease, disposal, or other use of such lands that would significantly restrict subsistence uses shall be effected until the relevant land management agency determines that (1) the restriction is consistent with land management principles, (2) the restriction will involve the minimum amount of land necessary, and (3) action will be taken to minimize the restriction's adverse effects on subsistence uses. ANILCA directed that at least $40 million derived from timber and other receipts be made available to the Forest Service to maintain the timber supply from the Tongass to the dependent forest products industry at a rate of 4.5 billion board feet per decade. The Forest Service amended its 1979 Tongass forest plan in 1986 to reflect ANILCA's provisions.

[1]Commercial forestland is land that produces or is capable of producing crops of industrial wood and (1) has not been withdrawn from harvest by the Congress, the Department of Agriculture, or the Forest Service; (2) is capable of being harvested without irreversible damage to soil or watersheds; and (3) can be restocked within 5 years of harvesting.

The Forest Service Began to Revise the Tongass Forest Plan In 1987

In 1987, the Forest Service began to revise the forest plan for the Tongass. The agency started by involving the public in a scoping process to identify issues that would need special attention by the interdisciplinary team developing the revised forest plan. The team also started developing a computer database of information about the resources on the Tongass, such as the location of streams and timber stands, to provide information on the potential effects of a revised plan.

The organizational structure for planning consisted of a core interdisciplinary team headed by a team leader and an assistant team leader. The team members included a wildlife biologist, a lands specialist, a recreation planner, and a timber resource specialist, among others. The team leader reported directly to the Chatham Forest Supervisor, who represented all three forest supervisors and exercised day-to-day responsibilities for the plan's development. The Alaska Region's Director of Ecosystem Planning and Budget offered planning advice to the interdisciplinary team leader. In addition, two groups advised the team. The first group included the Forest Service's regional directors for timber, wildlife and fish, recreation, engineering, lands, minerals, and fish and watersheds. The second group consisted of the planners from each of the forest's three administrative areas. This organizational structure provided the interdisciplinary team with input from the forest's three administrative areas and from the regional directors, who are considered to be the technical experts within the Forest Service's regional office.

In June 1990, the Forest Service issued a draft forest plan for public comment.[2] The draft plan's analysis centered around 11 issues identified during scoping: scenic quality, recreation, fish habitat, wildlife habitat, subsistence, timber harvest, roads, minerals, roadless areas, the local economy, and wild and scenic rivers. The draft presented seven alternatives that the Forest Service could adopt to manage the Tongass but did not include a preferred alternative.

[2] *Tongass Land Management Plan Revision: Draft Environmental Impact Statement* and *Tongass Land Management Plan Revision: Draft Environmental Impact Statement, Proposed Revised Forest Plan*, Forest Service (June 1990).

A Viable Population Committee Was Established to Examine Wildlife Species on the Tongass

The wildlife strategy contained in the 1990 draft of the forest plan was questioned. For example, some Forest Service staff from the three Tongass administrative areas considered the approach too difficult to implement and not scientifically supportable. Moreover, the Forest Service's approach to maintaining diverse wildlife populations was changing at this time. For example, in a 1988 decision on an appeal of the approved forest plan for the Flathead National Forest in northwest Montana, the Associate Chief of the Forest Service directed the regional forester to leave 10 percent of certain watersheds in old-growth areas large enough to provide habitat for certain species until the region completed additional analyses of these species' habitat requirements. In addition, in 1990, an interagency scientific committee released a conservation strategy for the northern spotted owl in the Pacific Northwest that advocated retaining large blocks of old-growth forests as a way of ensuring the viability of owl populations.[3]

In response to concerns about the viability of certain old-growth-dependent species on the Tongass, in October 1990, the interdisciplinary team revising the Tongass forest plan established a committee to study the viability of populations of various old-growth-dependent species—the "viable population" committee. This committee's principal mission was to identify species whose viability might be impaired by some forest management activities and to develop recommendations to maintain viable populations for each such species. The committee was not part of the interdisciplinary team.

Shortly after the committee was established and during the 6-month period for commenting on the draft Tongass forest plan, the Congress passed the Tongass Timber Reform Act of 1990. Among other things, this act repealed ANILCA's special funding provision for maintaining the timber supply from the Tongass. The act required, instead, that the Forest Service seek to meet the market demand for timber annually and over the 15-year planning cycle, consistent with existing law, appropriations, and the provision of multiple uses and the sustained yield of all forest resources. The act also limited timber harvesting near certain streams, designated additional wilderness areas within the Tongass, and designated 12 additional special management areas in which timber harvesting and road building are

[3]Thomas, et al., *A Conservation Strategy for the Northern Spotted Owl: Report of the Interagency Scientific Committee to Address the Conservation of the Northern Spotted Owl* (1990).

generally prohibited. The act also made nine modifications to the Tongass's long-term timber sale contracts, including adding provisions to the contracts to prohibit the disproportionate harvesting of old-growth timber. The Forest Service amended its 1979 Tongass forest plan in February 1991 to reflect the act's requirements.

The Forest Service Prepared a Supplement to the Draft Plan

To respond to the Tongass Timber Reform Act and comments received on the 1990 draft forest plan, which included questions raised about the adequacy of the wildlife viability analysis in the 1990 draft forest plan, the Forest Service decided to prepare a supplement to the draft plan. In February 1991, the viable population committee submitted a report to the leader of the interdisciplinary team containing a proposed strategy for conserving old-growth forest and specific standards for 13 species dependent on old-growth forest as habitat. As foreshadowed by the strategy of the interagency scientific committee for the Pacific Northwest, the report recommended the use of large tracts of old-growth reserves close enough together so that local wildlife populations could interact with each other. According to the report, such a system would promote the interchange of genetic material between populations and maximize opportunities for recolonization should one of the populations suffer local extinction. The report asserted that this strategy would affect a smaller proportion of the suitable timber base than was affected by the interagency scientific committee's strategy or even by the standards appearing in the 1990 draft forest plan. The report further indicated that the recommended standards would only "barely assure perpetuation" of certain species on the Tongass.

As the interdisciplinary team prepared the supplement to the draft plan, it rejected the strategy recommended by the viability population committee. According to the supplement, the team rejected the committee's habitat protection recommendations because the team considered the evidence supporting the recommendations to be insufficient. The draft plan accompanying the supplement provided for (1) timber sales to be managed so as to maintain large blocks of old-growth reserves and corridors between the blocks, where compatible with other resource objectives, and (2) standards and guidelines to protect any species that had been identified by the Department of the Interior's Fish and Wildlife Service, the Department of Commerce's National Marine Fisheries Service, or the Forest Service as threatened, endangered, or sensitive or as a candidate for any of these categories.

The supplement,[4] issued in September 1991 for public comment, presented five alternatives, including a preferred alternative. The preferred alternative was designed, in the Forest Service's words, to "enhance the balanced use of resources of the forest and provide a public timber supply to maintain the Southeast Alaska timber industry." The alternative proposed an average annual allowable sale quantity of 418 million board feet—down from the allowable sale quantity in the 1979 plan of 450 million board feet. During 1991 and the spring of 1992, the viable population committee continued to work on refining and developing its proposed strategy for conserving wildlife in its February 1991 report and produced a draft report for review in April 1992.[5] At the request of an Alaska Region official, a wildlife ecologist from the Pacific Northwest Research Station—a Portland, Oregon, research arm of the Forest Service—reviewed the draft report and concluded in July 1992 that the report's wildlife conservation strategy was sound. The ecologist urged closer cooperation between the interdisciplinary team and the viable population committee and recommended further peer review of the committee's draft report.

In December 1992, an Anchorage newspaper published an article accusing the Forest Service of covering up the information contained in the viable population committee's draft report and of disregarding the report's conclusions. Forest Service officials denied the accusations and asserted that the viable population committee's report was only a draft, not yet ready for public distribution, and that not enough information was available to finalize the report. In January 1993, the Chairman of the House Committee on Natural Resources asked the Secretary of Agriculture to investigate this matter.

After the 1991 supplement to the draft forest plan was released for public comment but before a preferred alternative was selected, the interdisciplinary team carried out another study of fish and wildlife viability. This study was to be included as an appendix—known as "appendix M"—to the final forest plan. Appendix M described three additional risk assessments of wildlife viability performed by the

[4] *Tongass Land Management Plan Revision: Supplement to the Draft Environmental Impact Statement* and *Tongass Land Management Plan Revision: Supplement to the Draft Environmental Impact Statement, Proposed Revised Forest Plan*, Forest Service (Aug. 1991).

[5] Suring, et al., *A Strategy for Maintaining Well-Distributed, Viable Populations of Wildlife Associated with Old-Growth Forests in Southeast Alaska*, review draft (Apr. 1992).

interdisciplinary team, one of which was based on the viable population committee's strategy. The interdisciplinary team stated in appendix M that these risk assessments amounted only to hypotheses and required additional data and testing. In February 1993, the interdisciplinary team presented a draft of a final revised forest plan—including a record of decision with a preferred alternative selected by the forest supervisors—for approval by the regional forester. The regional forester did not sign the decision.

Twenty-three conservation biologists and resource scientists sent a letter to the Vice President in March 1993, condemning the Forest Service's treatment of its scientists and their work on the Tongass and the Clearwater National Forest in Idaho. In June 1993, the House Committee on Appropriations issued a report to accompany the Forest Service's fiscal year 1994 appropriations bill directing the Alaska Region to (1) assist the viable population committee in completing its report and (2) seek peer review of both the completed report and appendix M. The committee completed a draft of its report in May 1993. By August 1993, the Alaska Region's regional forester officially requested the Forest Service's Pacific Northwest Research Station to conduct an independent peer review of the documents.

The Strategies for Protecting Wildlife Were Peer Reviewed

In March 1994, the Pacific Northwest Research Station released its report, which contained 18 individual scientific reviews, a legal review, and a summary of the reviews and recommendations.[6] The peer review gave the viable population committee's draft report generally "high marks," while concluding that the strategy contained in appendix M was "not as thorough or well motivated." The peer review indicated that appendix M needed to go further to meet the requirements of the relevant legislation.

The legal review concluded that while the viable population committee's strategy represented "an earnest, if highly cautious" attempt to properly implement the Forest Service's regulations for ensuring wildlife viability and diversity, the proposed appendix's strategy did "not appear to implement either the spirit or the letter of these principles." The legal review also expressed doubt about the consistency of the Forest Service's proposed alternative with the Tongass Timber Reform Act's restriction on

[6]Kiester, et al., *Review of Wildlife Management and Conservation Biology on the Tongass National Forest: A Synthesis with Recommendations* (1994).

the disproportionate harvesting of old-growth timber. One of the scientific reviewers also raised doubts about the legal validity of the timber harvest plans outlined in the draft revised forest plan, noting that the plans appeared to be incompatible with the agency's own proposed wildlife strategy.

One of the Two Remaining Long-Term Timber Contracts Was Terminated

In the 1950s, the Forest Service awarded three 50-year contracts to timber companies to harvest timber on the Tongass. A fourth contract was awarded in the 1960s but was canceled before operations began. When initiated, the contracts required that each of the companies construct and operate a pulp mill—a mill that converts logs into wood pulp—to provide for steady employment in southeast Alaska. One of the companies constructed a pulp mill at Ketchikan, and another company constructed a pulp mill at Sitka. The third company did not construct a mill, and its contract was reduced to 25 years.

In April 1994, the Forest Service terminated one of the two remaining long-term contracts, asserting that the contract holder—the Alaska Pulp Corporation—had breached the contract by closing its pulp mill in Sitka. The corporation in turn filed an action against the Forest Service for breach of contract and the unconstitutional taking of property. Litigation is still pending.

A New Regional Forester Redefined the Direction of the Forest Plan Revision

At the end of April 1994, the Alaska Region's regional forester retired. In May 1994, the Chief of the Forest Service appointed a new regional forester to the Alaska Region. The new regional forester requested that the 1991 supplement to the draft forest plan be revised to take into account new scientific knowledge about wildlife viability and new initiatives within the Forest Service, among other things.

The regional forester identified five issues on which the revised supplement would focus:

- wildlife viability, because of new information available from the viable population committee and other sources;

- caves and karst,[7] because of the recent discovery of world-class karst in the Ketchikan area;
- fish and riparian management, because of new information arising from a congressionally mandated study—ongoing at that time—on anadromous fish habitat[8] and because of the importance of the fishing industry to southeast Alaska;
- alternatives to clear-cutting,[9] because of the Chief's June 1992 policy to reduce clear-cutting in national forests by as much as 70 percent in order to manage forests in a more environmentally sensitive manner; and
- socioeconomic effects, because of concern about how changes in managing the Tongass could affect the timber and other industries, especially in light of the then recent shutdown of one of the region's two pulp mills.

The New Regional Forester Established a New Planning Team Structure

In mid-1994, the newly appointed regional forester established a new planning team structure to revise the 1991 supplement to the draft Tongass forest plan. The restructured planning team consisted of two groups—an interagency policy group and an interdisciplinary team.

The Interagency Policy Group Advised the Interdisciplinary Team

The interagency policy group was composed of officials from the Alaska Region, including the three forest supervisors; program managers from the U.S. Environmental Protection Agency, the Fish and Wildlife Service, and the National Marine Fisheries Service; and personnel from the state of Alaska. The group's role was to advise the interdisciplinary team on the development of the revised supplement to the draft forest plan and to provide interagency coordination with other federal and Alaska agencies.

[7]Karst consists of areas underlain by soluble rocks, primarily limestone. Dissolution of the subsurface strata results in areas of well-developed surface drainage that are sinkholes, collapsed channels, or caves.

[8]*Report to Congress: Anadromous Fish Habitat Assessment*, Forest Service, Pacific Northwest Research Station, Alaska Region (Jan. 1995).

[9]Clear-cutting is a method of harvesting timber that involves removing most or all of the trees from a timber-harvesting site at one time.

The policy group was disbanded in April 1996 when the revised forest plan was issued for public comment.

The Interdisciplinary Team Was Divided Into Two Branches

The interdisciplinary team is divided into two branches: a policy (also called a management) branch and a science branch. The regional forester assigned coleaders to the interdisciplinary team—a deputy forest supervisor to head the team's policy branch and a research scientist to head the science branch. The policy and science branches coordinated their efforts to develop alternatives for managing the Tongass.

The Science Branch Advised the Policy Branch

Under the reorganized planning team structure, the Director of the Pacific Northwest Research Station appointed research scientists to the interdisciplinary team's science branch between the fall of 1994 and early 1995 with the concurrence of the regional forester. They included scientists with backgrounds in forest ecology, wildlife biology, social science, hydrology, geology, forestry, and statistics. According to Forest Service officials, scientists were appointed because of concerns about the scientific credibility of the wildlife strategy in the 1991 supplement to the draft forest plan.

The research scientists gathered information primarily on the five issues identified by the regional forester. They (1) gathered existing scientific data pertaining to the Tongass, (2) reviewed various assumptions and strategies used in the plan, and (3) developed estimates of risks to resources that might result from various proposed management activities that were eventually included in the revised supplement to the draft environmental impact statement. In most instances, the scientists did not have the time to develop new data but, rather, relied on information already in existence.

The regional forester and science branch scientists with whom we spoke told us that although the research scientists were part of the interdisciplinary team, they did not participate in developing the alternatives or selecting the preferred alternative in the revised supplement to the draft forest plan. Rather, the research scientists in the science branch were responsible for (1) gathering information on the five issues and forwarding it to the policy branch and (2) providing comments and views on related scientific studies and indicating the risks involved in adopting various management options.

After the policy branch had developed the alternatives to be included in the revised supplement to the draft forest plan, the science branch convened 10 panels of experts and specialists. Each of nine panels examined the potential effects of the nine alternatives on one of the following nine issues: the Alexander Archipelago wolf, the northern goshawk, the marbled murrelet, the American marten, the brown bear, terrestrial mammals, fish/riparian areas, old-growth forests, and communities. A tenth panel updated an existing habitat capability model for projecting the effects of the nine alternatives on the Sitka black-tailed deer. At the same time, a working group evaluated the risk each alternative could pose to subsistence uses.

The Policy Branch Developed Alternatives

Many of the policy branch's members were from the prior interdisciplinary team. The policy branch included national forest personnel with backgrounds in fish and wildlife biology, economics, recreation planning, resource information, wildlife ecology, and timber planning.

The policy branch was responsible for developing the alternatives in the revised supplement of the draft forest plan, managing the resource database, coordinating public involvement, maintaining documentation of the planning process, and calculating the impact of alternatives on the amount of timber available for harvest. In developing the alternatives, members of the policy branch considered the scientific information gathered by the science group, as well as the scientists' comments and views on the risks involved in adopting various management options. The two branches also worked together to summarize the findings of the 11 scientific assessment panels convened by the science branch and present the summary to the forest supervisors to aid them in selecting a preferred alternative for managing the forest. Alaska Region officials told us that members of the policy branch chose the various management options, such as the size of the beach fringe and the extent of the wild and scenic rivers, presented in each alternative.

Forest Supervisors Played a New Role in the Restructured Team

Under the planning team structure in effect from 1987 to August 1994, the Chatham forest supervisor exercised day-to-day responsibility for developing the revised Tongass forest plan and directly supervised the interdisciplinary team. However, under the new regional forester's new planning team structure, the three forest supervisors became members of the interagency policy group whose role was to advise, rather than supervise, the interdisciplinary team in developing the revised supplement

to the draft forest plan. This new role for the forest supervisors was controversial both inside and outside the Forest Service.

The forest supervisors stated that they were not involved in the decision to restructure the planning team or in appointing its new members, including the research scientists. According to the supervisors, between August 1994 and September 1995, this new management structure prevented them from exercising their decision-making responsibilities under NFMA with respect to appointing and supervising the interdisciplinary team.

For example, one forest supervisor told us that the supervisors did not participate in developing the alternatives or establishing the scientific assessment panels. He said that if he had been responsible for supervising the interdisciplinary team, he would not have convened the panels because of their anticipated high costs, the lack of data on which to make informed decisions, and the inadequacy of similar past efforts.

According to the deputy forest supervisor assigned by the regional forester to head the interdisciplinary team's policy branch, he tried to keep the forest supervisors informed about the interdisciplinary team's work but generally did not ask them for direction. In addition, he told us that the deputy regional forester, rather than the forest supervisors, had been assigned responsibility for hiring, firing, and promoting Tongass planning staff between August 1994 and September 1995.

The forest supervisors also believe they were not invited to participate in some key meetings held by the interagency policy group. Other Forest Service officials note that the interagency policy group was a large, unwieldy body that made few, if any, decisions.

According to the regional forester, the forest supervisors informed him of their concerns in the fall of 1995. He concluded that the communication link between the deputy forest supervisor and the forest supervisors was not working. He told us that from that point forward, the supervisors became "reengaged" in the planning process. At about this time, the supervisors began to participate in meetings held by other Forest Service members of the interagency policy group. Subsequently, the forest supervisors crafted the preferred alternative included in the April 1996 revised supplement to the draft forest plan.

The Revised Supplement to the Draft Plan Was Released for Public Comment

In April 1996, the Forest Service released the revised supplement to the draft plan for public comment.[10] The revised supplement differed substantively from the two previous versions of the draft plan that had been issued for public comment. The revised supplement presented nine alternatives and a preferred alternative. Each alternative consisted of variations of 10 components: system and number of old-growth reserves, rotation age for timber, old growth and watershed retention, method of timber harvesting, extent of preservation of karst and caves, extent of riparian protection, size of beach fringe, estuary protection, timber harvest in watersheds, and deer winter range.

The three forest supervisors considered the initial nine alternatives in the revised supplement before selecting a combination of components from the alternatives to create their preferred alternative. The preferred alternative incorporated old-growth reserves, an average 100-year rotation age for timber, a combination of harvesting methods, a two-aged timber-harvesting system, a combination of riparian protection options, and an average allowable sale quantity of 357 million board feet per year. Compared with the 1979 forest plan, the preferred alternative and the majority of the other alternatives considered increased the protection of wildlife habitat and decreased the amount of timber available for harvesting.

Socioeconomic Effects Were Addressed

The April 1996 revised forest plan and environmental impact statement for the Tongass placed heavy emphasis on regional socioeconomic effects. They did not, however, attempt to quantify the economic effects on local communities. For example, the revised supplement examined the effects of reduced timber harvesting on the timber, recreation, and fishing industries, both for the region and for the nation, and expressed these effects in terms of jobs and income created or lost. However, for individual communities, the revised supplement described socioeconomic effects much more generally than it did for the region as a whole. The revised supplement profiled each of southeast Alaska's 32 communities separately and discussed the composition of each community's economy. However, the

[10] *Tongass Land Management Plan Revision: Revised Supplement to the Draft Environmental Impact Statement* and *Tongass Land Management Plan Revision: Revised Supplement to the Draft Environmental Impact Statement, Proposed Revised Forest Plan*, Forest Service, Alaska Region (Mar. 1996).

revised supplement did not quantify the economic impact but simply stated whether a proposed alternative would have a negative, positive, or indifferent effect on the timber, fishing, and recreation sectors of the community's economy.

Forest Service economists told us that socioeconomic effects were not forecast as specifically for communities as they were for the region because not enough information was available about either the communities or the location of future timber sales. For example, Forest Service officials told us that without knowing where a timber sale will take place and how the timber will be processed, the Forest Service cannot determine which communities will be affected by timber sales. The 1990 draft environmental impact statement and the 1991 supplement to the draft environmental impact statement also did not attempt to forecast specific effects on individual communities.

The Forest Service Solicited and Received Public Comments on the Draft Revised Plan

After the revised supplement to the draft plan was released for public comment, the Forest Service held open houses and hearings in southeast Alaska's 32 communities, met with interested groups, and discussed the proposed revised plan on local media. The revised supplement to the draft plan also generated public meetings and demonstrations, as well as congressional hearings. In July 1996, the regional forester granted a 30-day extension (through late Aug. 1996) to the 90-day comment period after considering the public comments received to date and the interest shown by the public in extending the comment period. About 21,000 respondents submitted comments. In comparison, for the 1990 and 1991 drafts released for public comment, the Forest Service received comments from about 3,700 and 7,300 respondents, respectively.

Because of the large volume of public comments, the Alaska Region did not have the resources to effectively analyze them alone. Instead, regional officials contracted with a Forest Service team of specialists in content analysis from the Flathead National Forest in Montana. Between June 1996 and October 1996, the in-Service team analyzed the public comments. Substantive issues, concerns, and questions raised by commenters were identified by the in-Service team and given to the interdisciplinary team for consideration in developing the revision to the final plan. The in-Service team, working primarily on the Flathead National Forest, consisted of about 40 people, including a project coordinator, 2 team leaders, computer support staff, writers/coders, data entry staff, and editors. In addition, staff from the Alaska Region assisted the in-Service team.

In early October 1996, the in-Service team prepared the final draft content analysis summary displaying demographic information and specific issue-by-issue analysis in a summary of public comments. According to the content analysis done by the in-Service team, (1) the majority of the public comments concerned the level of timber harvesting that the preferred alternative allowed, (2) over half the comments supported lowering the amount of timber available for harvesting and suggested terminating or not extending the Tongass's remaining long-term timber-harvesting contract, and (3) many of the respondents, especially southeastern Alaskans, were worried about the social and economic effects on their communities if the preferred alternative was selected .

The New Regional Forester Involved Regulatory Agencies in Revising the Plan

As discussed earlier, in mid-1994, the newly appointed regional forester established a new planning team structure to revise the 1991 supplement to the draft Tongass forest plan. Under the new structure, the regulatory agencies were members of the interagency policy group established to advise the interdisciplinary team and to improve interagency coordination.

Interagency coordination became increasingly important in December 1993 when the Fish and Wildlife Service received a petition to list the Alexander Archipelago wolf as threatened under the Endangered Species Act. In addition, in May 1994, the Fish and Wildlife Service received a petition to list the Queen Charlotte goshawk as endangered under the act. Both subspecies occur on the Tongass and depend on old-growth forest for habitat. The revised Tongass forest plan, when issued, would affect the management of these subspecies' habitat and could thus be a determinant in the viability of the species.

Besides involving the Fish and Wildlife Service in the interagency policy group, the Forest Service, in December 1994, signed a memorandum of understanding with the Fish and Wildlife Service and the Alaska Department of Fish and Game to prevent the listing of species on the Tongass as endangered or threatened. The memorandum provided for the agencies to assess wildlife habitat, share information about species they manage, and meet regularly to discuss the status of species to reduce the need to list them under federal or state endangered species acts.

In addition, the Forest Service's Alaska Region acted independently to prevent the listing of the wolf, the goshawk, and other species:

- In June 1994, the regional forester deferred timber harvesting in old-growth reserves that the viable population committee had identified as needed to maintain viable populations of old-growth-dependent species.
- In September 1994, the Forest Service issued for comment an environmental assessment intended to protect the wildlife habitat of such species as the goshawk and the wolf while maintaining a supply of timber for local industry. The proposed action in the environmental assessment was to provide interim management guidelines to protect the species until the revised supplement to the draft forest plan was approved. If implemented, the guidelines were intended to protect those areas identified by the viable population committee as needed to maintain viable populations of old-growth-dependent species. This action was predicted to "likely result in measurably lower timber sale offerings to independent mills," as well as defer some timber sale offerings for the Tongass's remaining long-term contract. In July 1995, the Congress passed an act [11] containing a rider effectively prohibiting the Forest Service from implementing the management guidelines. Accordingly, the regional forester did not sign the environmental assessment or implement the guidelines.

In 1995, the Fish and Wildlife Service found that listing the wolf and the goshawk under the Endangered Species Act was not warranted. Environmental plaintiffs challenged these decisions. In September 1996, as the Forest Service was reviewing public comments on the revised supplement to the draft plan and formulating an alternative intended to become the final Tongass forest plan, a federal district court remanded the Fish and Wildlife Service's decision on the goshawk to the agency. In October 1996, the same court reached the same decision with respect to the wolf. In each case, the court ruled that the Fish and Wildlife Service's basis for not listing the subspecies–that the revised Tongass forest plan would provide adequate protection for the species' habitat–was not valid, since the plan had not yet been formally approved by the Forest Service. Instead, the court held that the Fish and Wildlife Service must base its decision on the current (1979, as amended) plan and the current status of the subspecies and its habitat.

[11] Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-Terrorism Initiatives, for Assistance in the Recovery From the Tragedy That Occurred at Oklahoma City, and Rescissions Act, 1995, P.L. 104-19.

As a result of these court decisions, the Fish and Wildlife Service began negotiations with the Forest Service in an attempt to ensure that the final forest plan would prevent the need to list the goshawk or the wolf as endangered or threatened.

Despite the involvement of federal regulatory and state agencies in developing the revised supplement to the draft forest plan, the Environmental Protection Agency, the Fish and Wildlife Service, and the National Marine Fisheries Service submitted comments on the draft plan that criticized the preferred alternative as posing a high level of risk to wildlife and habitat. The Fish and Wildlife Service was concerned that harvesting timber on a 100-year rotation, as proposed in the preferred alternative, would prevent forests from recovering characteristics of old-growth stands, resulting in the loss of viable populations of species that depend on old-growth forests for habitat. The Environmental Protection Agency and the National Marine Fisheries Service favored more expansive riparian protection than the preferred alternative provided to protect fish habitat and water quality.

The Administration Reached Agreement on the Remaining Long-Term Contract Holder's Mill

In February 1997, the administration reached an agreement with the company holding the remaining long-term timber sale contract to terminate the contract on December 31, 1999, with a possible extension to October 31, 2000. This agreement required the company—the Ketchikan Pulp Company—to continue operating two sawmills in southeast Alaska and to clean up specified environmental damage resulting from its operations in southeast Alaska. In exchange, the administration agreed to supply enough timber to operate the sawmills for 3 years and to make certain cash payments to the company.

Scientific Panels Were Reconvened in Early 1997

In March and April 1997, the scientists on the planning team reconvened the scientific panels to assess the alternatives in the draft revised forest plan, some of which had been modified since the revised supplement was released for public comment in April 1996. As the final alternative for the forest plan was being developed, the public, the Congress, and officials in the departments of Agriculture and the Interior, among others, expressed concern that the final alternative might pose an unacceptable risk to forest resources—particularly wildlife and fish. As a result, six panels met to review both the preferred alternative in the draft revised plan and the emerging final alternative to gauge the effects of these alternatives on several species of wildlife that live on the Tongass.[12] Specifically, these panels addressed effects on the Queen Charlotte goshawk, Alexander Archipelago wolf, brown bear, American marten, fisheries resources (anadromous and resident), and other terrestrial mammals. The head of the science group described these panels as "not designed to be a fine-precision exercise, but rather one to provide decisionmakers and the public with informed professional judgments obtained through a structured, objective process."

The Draft Revised Forest Plan Became Final

On May 23, 1997, the regional forester approved a revised plan and final environmental impact statement for the Tongass. The plan established an allowable sale quantity of 267 million board feet of timber per year, down from 450 million board feet in the 1979 plan, and lower than the 357 million board feet proposed in the April 1996 preferred alternative released for public comment.

The 1997 Forest Plan Led to a Decision by Fish and Wildlife Not to List the Goshawk and Wolf

On September 4, 1997, the Fish and Wildlife Service concluded, primarily on the basis of the revised plan, that listing the goshawk and wolf under the Endangered Species Act was not warranted. In April 1998, environmental groups sued the Fish and Wildlife Service, seeking to force the listing of the Queen Charlotte goshawk under the Endangered Species Act. The groups asserted, among other things, that the 1997 Tongass forest plan was still insufficient to protect goshawk habitat.

[12]See Charles G. Shaw III, *Use of Risk Assessment Panels During Revision of the Tongass Land and Resource Management Plan*, Forest Service (July 1999).

The Science Group Concluded Its Review of the Use of Science in the Selected Alternative

In October 1997, the Pacific Northwest Research Station completed a report examining the extent to which science was considered in developing the 1997 Tongass plan.[13] The report's goal was to examine "how scientific information was used in making management decisions" and to evaluate "whether the decisions were consistent with the available information." The report concluded that the final management decision made in developing the 1997 forest plan "achieved a high degree of consistency with the available scientific information." To make decisions that were "consistent" with science, the policy group had to show that they (1) considered all relevant scientific information, (2) understood and correctly interpreted the scientific information, and (3) acknowledged and documented the risks to forest resources associated with their decisions in the 1997 plan.

The Organizational Structure of the Tongass Changed

In 1998, the organizational structure of the Tongass changed. Instead of three forest supervisors, one forest supervisor has specific responsibility for the Tongass. An assistant forest supervisor now heads each administrative area—formerly headed by a forest supervisor. Officials in the Forest Service's Alaska Region told us that the reorganization is intended to devolve the management of the Tongass and the implementation of the Tongass forest plan from the region to the forest.

[13]Everest et al., *Evaluation of the Use of Scientific Information in Developing the 1997 Forest Plan for the Tongass National Forest*, Forest Service (Oct. 1997).

Information on the Process Used to Modify the 1997 Tongass Forest Plan

This appendix provides information on the process used to modify the management direction in the 1997 Tongass forest plan and decide the appeals of the plan. Table 2 summarizes the major events in this process. The remainder of the appendix discusses these events in greater detail.

Table 2: Major Events in the Modification of the 1997 Tongass Forest Plan

Date	Event
1997	
May	Regional forester approves the revised Tongass forest plan.
September	As of this date–the deadline for filing appeals of the 1997 Tongass forest plan–a total of 33 appeals are filed.
1998	
March	Regulatory deadline for deciding appeals passes; appeal decisions are not yet drafted.
April	Environmental groups sue the Fish and Wildlife Service to list the goshawk.
June	All draft appeal decisions are submitted to the Chief's office by this date; the draft decisions affirm the plan.
July	Senate appropriations bill contains a rider requiring the Forest Service to offer at least 90 percent of the Tongass's annual allowable sale quantity of timber for sale each year.
	Environmental groups request a stay of nine timber sales on the Tongass; Forest Service does not respond to the request.
August	Industry group files suit alleging that the 1997 forest plan violates planning laws and market demand provisions of the Tongass Timber Reform Act.
September	Alaska Region completes a draft study of the market demand for timber.
October	The Congress drops the rider to the Senate appropriations bill and funds the preparation of additional timber sales on the Tongass.
November	Draft appeal decisions remain unsigned, and officials from the Forest Service, Agriculture, and Justice begin to seek an approach to decide the appeals.
December	Environmental group sues the Forest Service for missing the regulatory deadline for deciding appeals.
1999	
January	Forest Service and Agriculture decide to modify the management direction in the 1997 forest plan and draft new appeal decisions.
	Forest Service and Agriculture assemble a team to analyze four concerns.
February	Agriculture's Under Secretary for Natural Resources and Environment decides he will sign the modifications to the 1997 forest plan.
March	Modifications to the plan are largely completed, and work shifts to drafting new appeal decisions.
April	Under Secretary approves modifications to the plan and decides the appeals on the basis of the modified plan.
May	Environmental and industry groups challenge the modifications and process in court, asserting that they violate planning laws and the Tongass Timber Reform Act.
June	Court orders the Fish and Wildlife Service to gather additional information on the goshawk.
August	Administration adjusts the termination date of the remaining long-term timber contract from December 31, 1999, to no later than October 31, 2000.
September	Environmental groups sue, alleging that the administration unlawfully failed to assess the environmental impact of the timber contract adjustment.
October	Modifications to the Tongass forest plan take effect.

Thirty-Three Appeals Were Filed on the 1997 Tongass Forest Plan

Thirty-three appeals were filed on the revised plan within the 90 days established in the Forest Service's regulations. This period expired on September 25, 1997. In addition to procedural issues associated with the development of the forest plan, the appeals raised numerous substantive concerns. The largest number of appeals focused on the forest plan's potential risks to the environment, particularly through the use of clear-cutting. The second most frequently cited concerns addressed road building. The appeals filed from industry groups and some local communities focused on the 1997 plan's reduction in the allowable sale quantity of timber and the economic damage to the timber industry that might result. Intervenors also commented on appeals filed by others.

According to staff in the Forest Service's appeals office, resolution of the Tongass appeals received high priority. Nevertheless, none of the appeals was decided within the 160-day period established in the Forest Service's planning regulations. This period expired on March 4, 1998. A Forest Service team consolidated the 33 appeals into 19 draft appeal decisions. With one minor exception, the decisions responded to the appellants' concerns by affirming the 1997 plan. By the end of June 1998, all of the draft appeal decisions had been sent to the Chief's office. These draft decisions were in final form and had been approved by the Department of Agriculture's Office of General Counsel. Officials familiar with the appeals process in the Forest Service expected that the Chief would shortly sign the appeal decisions, but he never did.

Implementation of 1997 Plan Gave Rise to Controversy

Litigation, administrative disputes, and congressional action related to the implementation of the 1997 plan proceeded while the Forest Service considered the appeals. For example, in October 1997, a timber industry group petitioned the Forest Service's Alaska Region to amend the 1997 plan. Among other things, the group sought changes to the plan to ensure that industry could have sufficient timber under contract to ensure a 3-year supply for a veneer plant expected to be opened near Ketchikan. In July 1998, a Senate appropriations bill (S. 2237) was reported out of committee with a rider that would have required the Forest Service to offer for sale each year at least 90 percent of the annual allowable sale quantity of timber in the 1997 plan.

Conversely, at the end of July 1998, several environmental groups requested the Forest Service to stay nine pending timber sales, attempting to preserve a meaningful opportunity for a review of their appeals of the

1997 plan. A representative of one of the groups said the request for a stay stemmed, in part, from the groups' fear that the Forest Service was beginning to implement the provisions of the 1997 plan challenged in the groups' appeals. Although the Forest Service's regulations provide that the agency must respond to a request for a stay within 10 days, the agency never responded to the request. However, in October, the Forest Service's Washington Office directed the regional forester in Alaska to cease advertising timber sales that were the subject of unresolved appeals or litigation.

Immediately after the period for responding to the request for a stay closed in August 1998, a timber industry group filed suit against the Forest Service. Among other things, this suit alleged that the 1997 forest plan violated the Tongass Timber Reform Act because the Forest Service had failed to (1) accurately determine the market demand for timber from the Tongass and (2) seek to meet that demand. The timber industry group sought to enjoin implementation of the 1997 forest plan and require the Forest Service to either continue implementing the 1979 plan until a revised forest plan was approved or adopt an earlier draft as the revised forest plan.

In September 1998, the Forest Service's Alaska Region completed a draft study evaluating the market demand for Tongass timber. The draft study concluded that under a high-demand scenario, the demand for Tongass timber would average approximately 182 million board feet per year over the next decade—nearly 30 million board feet higher than the agency's previous high-demand estimate. The draft study specified that in establishing the market demand, the Forest Service would take into account the timber industry's need to have an adequate backlog of uncut timber under contract. Staff from the region briefed officials from the Forest Service's Washington Office, the Department of Agriculture, the state of Alaska, the Department of Justice, and the Alaska congressional delegation on the draft study's findings. The draft study was released for public comment in December 1998.

In October 1998, the Alaska Senate delegation agreed to drop the rider to the appropriations bill requiring a minimum Tongass timber supply. In exchange, the Secretary of Agriculture promised to spend $12.5 million to make sufficient timber available on the Tongass to support the proposed veneer plant. The Secretary also informally agreed to seek an extension of the remaining long-term contract and make an effort to resolve the concerns raised in the timber industry group's lawsuit.

In early December 1998, one of the Tongass forest plan appellants–an environmental group—sued the Forest Service, alleging that the agency had violated its appeals regulations by failing to decide the group's appeal within the 160-day period established in the regulations. The group sought to force the Forest Service to decide its appeal.

Agencies Sought an Approach to Decide the Appeals

Beginning in the fall of 1998, officials from the Department of Agriculture held a series of meetings on the Tongass, often including officials from the Forest Service, the Department of Justice, and other federal agencies. As early as October 1998, officials in the Department of Agriculture considered invoking the Secretary of Agriculture's discretionary authority to review the appeals, and by November, the Department of Agriculture's Under Secretary for Natural Resources and Environment had decided to assemble a "SWAT team" to address the appeals. In December, the Under Secretary decided to meet with Forest Service personnel from the Alaska Region to help decide the appeals. Two officials—the heads of the region's policy and science groups that drafted the 1997 plan—flew to Washington, D.C., in early January 1999 to help Forest Service officials navigate the 1997 plan's vast administrative record. However, according to Forest Service officials, the next day these officials were sent back to Alaska because of concerns about federal regulations prohibiting ex parte contact with Forest Service officials who developed the 1997 Tongass plan.

Decisionmakers Identified Concerns

By January 1999, the Chief's office and the Department of Agriculture had identified four interrelated concerns that they felt were not adequately addressed in the 1997 plan: (1) old-growth forest and the species that depend on it for habitat; (2) subsistence uses by rural Alaskans; (3) areas of the forest valued for ecological, recreational, subsistence, cultural, spiritual, and/or scenic purposes; and (4) beach fringe—the stretch of land extending from the ocean shore inland.

Amount and Distribution of Old-Growth Forest

The amount of old-growth forest and where it should be on the Tongass has been debated for decades. This debate centers on how much productive old-growth forest—and, in particular, how many high-volume tree stands [1]—should be retained to protect wildlife and provide opportunities for recreation and how much should be made available for timber harvesting. On the forest as a whole, over 350,000 acres of productive old growth have been logged since 1954, the year before the first long-term timber contract was awarded. Timber harvesting has historically been concentrated in high-volume stands.

A related debate concerns where old growth should be protected on the forest. Across the Tongass, timber harvesting has been concentrated in the higher-volume stands of timber and in timber at lower elevations. Timber harvesting has occurred in a spatially clumped fashion across the Tongass, concentrated on islands such as Prince of Wales, Northeast Chichagof, and Zarembo. Although the 1997 Tongass forest plan created a network of "habitat conservation areas," which contain old-growth forest, it forecasted a continuing decline in the amount of old-growth forest on the Tongass, including a decline in the amount of high-volume old-growth forest on Prince of Wales Island.

Subsistence Uses

Another area of concern for many rural Alaskans is the ability of the Tongass to sustain subsistence uses. Subsistence hunting, fishing, trapping, and gathering activities represent a major focus of life for many southeast Alaskans and may play a significant role in supplementing their cash incomes during periods when opportunities to participate in the wage economy are limited or nonexistent. Subsistence activities also have considerable cultural significance for both native and nonnative Alaskans.

One species especially important for subsistence is the Sitka black-tailed deer, which residents of many communities in southeast Alaska hunt for food. High-volume old-growth timber at low elevations provides important habitat for this species, particularly during the winter.

Under the 1997 Tongass forest plan, the quality of deer habitat was projected to decline in some areas by as much as 50 percent. The 1997 plan

[1]The Forest Service divides old growth into "productive" and "unproductive" components and further subdivides the productive component by volume (number of board feet per acre).

stated that the overall sustainability of the Sitka black-tailed deer is not threatened, but some of those who appealed the 1997 plan asserted that local timber harvesting could compromise subsistence uses.

Areas of Special Interest

Throughout the history of the Tongass National Forest, people have valued particular geographic areas on the Tongass over others. The areas most valued are generally parcels of old-growth forest that are accessible to hikers and tourists, are without roads, and are considered particularly scenic or provide particularly valuable habitat for wildlife. These areas are also often valued by the timber industry for their high-quality, easily accessible timber.

Determining which of these high-value areas (called "areas of special interest" in the 1999 modifications to the 1997 forest plan) are to be harvested for timber or otherwise developed and which are to be retained as natural areas has been the focus of legislative debate for many years. ANILCA created 14 wilderness areas. Ten years later, the Tongass Timber Reform Act designated 5 new wilderness areas, 1 addition to an existing wilderness area, and 12 other areas to be maintained without roads to retain their wildland character. The House version of the legislation, which proposed 23 areas for wilderness designation, would have done more to restrict development.

Beach Fringe

Beach fringe serves both ecological and recreational functions on the Tongass. Beach fringe provides a home and a corridor for wildlife, such as shorebirds, bald eagles, otter, and bear, that prefer to be near the ocean for food and habitat. In addition, an undisturbed beach fringe preserves visual beauty along the ocean and creates desirable opportunities for camping, hiking, and boating. The 1997 plan extended protection of beach fringe to 1,000 feet from the water level at high tide. However, some appellants were concerned that 1,000 feet does not provide adequate protection for the species dependent on beach fringe.

A Decision Was Made to Modify the 1997 Plan

By early 1999, the Under Secretary considered three options for responding to the appeals and addressing concerns about the 1997 plan. He could (1) return the plan to the Tongass to resolve the concerns raised in the appeals, (2) affirm the appeals with additional direction for nonsubstantive changes to the plan, or (3) modify the plan through the appeals process without

actually returning the plan to the Tongass. Ultimately, after consultation with officials from the Department of Agriculture, the Department's Office of the General Counsel, the Department of Justice, and the Chief's office, he decided to modify the management direction in the 1997 Tongass forest plan and issue 19 initial appeal decisions based on the modified plan.

The decision as to whether the Chief or Agriculture's Under Secretary for Natural Resources and Environment would sign the modifications was not made until the beginning of February. The Under Secretary told us that he agreed to sign the modifications for two reasons. First, if the Chief signed the modifications and the appeal decisions, the Secretary of Agriculture—or the Under Secretary, as designated—would have the discretion to review them. The Under Secretary said the Tongass National Forest was of such importance that he anticipated acting on the Secretary of Agriculture's authority to review the Chief's appeal decisions, which could add months to the process. The Under Secretary believed he could expedite the process by modifying the plan and signing the appeal decisions himself. Second, the Under Secretary had many years of experience with Alaskan issues, including time as a staff member on the House Committee that drafted the House version of the Tongass Timber Reform Act. He knew that the Chief was busy with many other matters, including his natural resource agenda; therefore, the Under Secretary volunteered to "take over" the appeals process for the Tongass forest plan.

The Forest Service Assembled a Team of Specialists in Forest Issues and Appeals

During the last week in January 1999, the Forest Service assembled a team of 15 Forest Service Washington Office and field staff to analyze the four concerns that the agency and the Department felt were not adequately addressed in the 1997 forest plan and to offer preliminary alternatives to address the concerns. The team assembled for the first time on Monday, February 1, 1999, for an all-day "kick-off" meeting at the Forest Service's headquarters in Washington, D.C.

During that initial meeting, the team was informed that the modifications to the plan were "99 percent" likely to end up in litigation. According to the Forest Service, because of ex parte concerns, the team was instructed not to contact Forest Service officials in the Alaska Region or the appellants. In addition, the team was instructed to limit its analysis to information contained in the 1997 forest plan's administrative record and the existing appeals record. The administrative record—a collection of 57 compact discs of information used to develop the 1997 Tongass forest plan—includes the results of scientific panels on issues relating to the Tongass,

public comments, the plan and environmental impact statement, among other things. The existing appeals record includes copies of each of the 33 appeals of the 1997 plan, among other things.

The team was given an ambitious schedule. They were expected to work overtime and weekends, if necessary, to complete the modified plan and appeal decisions within a month. When the Under Secretary for Natural Resources and Environment agreed to sign the modifications in February 1999, he also took the lead in guiding the team and shaping the changes to the plan.

The team was generally divided into two groups: (1) scientists to analyze the four concerns and prepare preliminary alternatives for addressing them and (2) appeals specialists to redraft the appeal decisions to reflect the modifications as they were developed.

The overall approach used by the group of scientists consisted of three stages. First, they developed a comprehensive matrix, documenting where in the 1997 forest plan's administrative record information could be found on the four concerns—old-growth forest, subsistence uses, areas of special interest, and beach fringe. Second, limiting themselves strictly to information in the record—including the 33 appeals of the 1997 forest plan—the scientists analyzed these issues, alert to possibilities for reducing risks. This analysis did not yield enough information to develop preliminary alternatives for increasing the protection of beach fringe, so they deleted this concern. Finally, they wrote issue papers summarizing their methodology, findings, and preliminary alternatives for reducing ecological and biological risks.

- For old-growth forests, the scientists focused on the viability of species that depend on this habitat. They found that the 1997 forest plan could be improved to provide more protection for brown bear and wolves. Specifically, they noted that, according to the scientific panels convened for the 1997 forest plan, the high density of roads in some areas posed a risk to wolves and brown bear. Feeding areas for brown bear were also threatened by the absence of wide stream buffers in some areas.
- For subsistence uses on the Tongass, the scientists mapped areas of the forest that were used for subsistence. They also analyzed the ability of all areas of the forest to support the Sitka black-tailed deer on the basis of (1) future declines in habitat capability projected under the 1997 plan and (2) the deer-harvest levels described in the plan's administrative record. They found that the old-growth forest needed by deer, especially

during the winter when they move to lower elevations, could be better protected. Providing better protection could help stave off a possible decline in the deer population in subsistence use areas.

- For areas of special interest, the scientists developed a matrix of areas that were mentioned most often in the 1997 forest plan's administrative record. The matrix ranked the areas according to the number of reasons for protecting them from development. For example, the matrix identified the Northeast Cleveland Peninsula as an area of special interest that should be considered for protection because it was valued for saltwater fishing, recreation, and subsistence uses by local residents, as well as for roosting by migrating swans, among other things. The ability to provide for subsistence uses and the presence of old-growth forest were frequently identified as reasons for proposing that areas be protected from development. Moreover, although increasing the protection of beach fringe was not specifically pursued, the amount of low-level elevation land and beach fringe was considered in evaluating the value of areas of special interest to species' viability and sustainability, according to the Forest Service.

After the scientists analyzed and wrote issue papers on old-growth forest, subsistence uses, and areas of special interest on the Tongass, they discussed alternatives for reducing the risks to these lands and resources. According to the group, the three concerns are closely interrelated, and management alternatives developed for one would likely affect the others. For example, a decision to protect an area of special interest by withdrawing it from development may also increase the amount of old-growth forest retained and provide more winter habitat for deer. According to several members of the group, the effect of an alternative on the allowable sale quantity of timber was considered but was not a driving factor in determining what alternatives to recommend.

The scientists identified five preliminary alternatives for addressing old growth, subsistence uses, and areas of special interest on the Tongass: (1) increase the timber harvest rotation from 100 years to 200 years for all land where timber harvesting is allowed; (2) restrict development in five areas of special interest; (3) increase the timber harvest rotation to 200 years forestwide and restrict development in five areas of special interest; (4) include additional measures in the plan to address the sustainability of deer and viability of wolves and brown bear, including reducing road density in wolf habitat areas; and (5) increase the timber harvest rotation to 200 years in some areas, restrict development in certain areas of special interest,

reduce the density of roads in some areas, and include additional measures to address the sustainability of deer and viability of brown bear.

The group of scientists considered but could not recommend other alternatives because the 1997 plan's administrative record did not contain adequate information to determine their possible impact. For instance, the scientists considered increasing the timber harvest rotation in certain areas to 300 years and requiring a larger buffer of undisturbed land around certain streams where brown bear feed, but the administrative record did not contain adequate information about the impact of these alternatives.

The scientists also provided information on the potential benefits and trade-offs associated with each of the five preliminary alternatives. For instance, they identified several potential benefits and trade-offs associated with the fifth alternative. The scientists asserted that this alternative would provide the greatest certainty of reducing the risks to old-growth forest, subsistence uses, and certain high-profile areas of special interest on the Tongass. On the other hand, the group noted that the alternative (1) is complex and difficult to describe, (2) could appear to be a major modification to the 1997 forest plan, and (3) could disproportionately affect the supply of timber among the Tongass's three administrative areas. Finally, the team noted that the alternative "provides the most difficult challenge to accurately describing [allowable sale quantity] changes."

The Under Secretary for Natural Resources and Environment chose the fifth preliminary alternative but added more areas of special interest and dropped the additional measures designed to ensure the sustainability of deer and viability of brown bear. The Under Secretary's selected alternative, when refined, added two new protection measures to the forest plan and changed the management planned for 14 areas of special interest from "development" to "mostly natural." One of the new measures increases the timber harvest rotation from 100 to 200 years on about 40 percent of the Tongass where timber harvesting is allowed. Increasing the timber harvest rotation means that timber cannot be harvested from the same stand of trees more often than once every 200 years. The other new measure decreases the open road density in areas where roads have been determined to significantly contribute to wolf mortality. The Under Secretary's decision to add more areas of special interest removed another 234,000 acres from timber harvesting and other development activities. Under the 1999 modified plan, timber harvesting is limited to about 3 percent of the Tongass.

By the middle of March 1999, the group of scientists had firmed up and drafted most of the modifications to the 1997 Tongass forest plan. At this point, the group of appeals specialists assumed most of the work. This group consisted of five staff, one of whom had helped to write the original draft appeal decisions that were submitted to the Chief's office the previous summer. Now the group redrafted those 19 draft appeal decisions to reflect the draft modifications to the 1997 plan.

By April 1999, most of the modifications and appeal decisions had been drafted. However, two issues remained unresolved: the number of areas of special interest that should be managed to restrict development and the timing and method of making the transition to the management direction in the 1997 forest plan, as modified. Ultimately, the Under Secretary chose to designate 4 additional areas of special interest in which development would be restricted, for a total of 18 areas. According to the Under Secretary, he designated the additional areas in response to an interim rule promulgated by the Forest Service on February 12, 1999, which temporarily suspended the construction of new roads into most roadless areas until the agency can develop a long-term forest roads policy. The interim rule provides that for plans in the appeals process (such as the Tongass plan), road construction in unroaded areas could be addressed in the appeal decisions (36 C.F.R. § 212.13). He also chose to implement the modifications as of October 1, 1999. Contracts and other legal instruments in effect as of that date would not be altered by the modifications to the plan.

As one of its last tasks, the team estimated the allowable sale quantity under the 1997 Tongass forest plan, as modified. The allowable sale quantity under the 1997 plan was developed by using the Alaska Region's timber harvest planning model. This model had resulted in the "most thorough and accurate analysis ever conducted for forest planning purposes in Alaska," according to the Forest Service. However, team members told us that ex parte concerns precluded them from obtaining data on timber yields on different parts of the forest and using the Alaska Region's timber harvest planning model in estimating the reduction in the allowable sale quantity attributable to the 1999 modifications. Instead, the team used a rudimentary formula that (1) multiplied the estimated average yield per acre forestwide by the number of acres withdrawn from development and (2) reduced the forestwide estimated average yield per acre to reflect the increase in the timber harvest rotation from 100 years to 200 years on certain parts of the forest. The team then subtracted the reduction in the allowable sale quantity from the allowable sale quantity in

the 1997 plan to estimate the allowable sale quantity under the plan, as modified.

On April 13, 1999, the Department of Agriculture's Under Secretary for Natural Resources and Environment approved the modifications to the management direction in the 1997 plan and decided the appeals on the basis of the modified plan. The same day, staff from the Forest Service called the appellants to inform them that decisions had been reached on their appeals.

The Modifications Drew New Litigation

Both the Under Secretary's approval of modifications to the management direction in the 1997 plan and appeal decisions based on the modified plan are now in litigation. In addition, in June 1999, the government suffered a setback in the goshawk litigation. A federal district court ordered the Fish and Wildlife Service to gather additional population data on the goshawk. The government has appealed this ruling.

In August 1999, the administration adjusted the termination date of the remaining long-term timber contract from December 31, 1999, to no later than October 31, 2000, so that timber under the contract would be available for the veneer plant that was expected to be built near Ketchikan. The administration made the adjustment conditional on the construction of the plant. In September 1999, several environmental groups (1) sued, alleging that the administration had failed to assess the environmental effects of its actions, as required by NEPA, and (2) filed a motion for a preliminary injunction seeking to immediately halt timber harvesting under the contract until the case is decided. In February 2000, the administration withdrew the condition for adjusting the contract's termination date, asserting that it was redundant in light of the financial commitments that the contract holder had made to support the plant's construction. The litigation is still pending.

Comments From the Forest Service

Note: GAO's comments supplementing those in the report text appear at the end of this appendix.

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File Code: 1420

Date: MAR 23 2000

Mr. Victor S. Rezendes, Director
Energy, Resources, and Sciences Issues
Resources, Community, and Economic
Development Division
U. S. General Accounting Office
441 G Street, NW
Washington, D. C. 20548

Dear Mr. Rezendes:

Thank you for the opportunity to review and comment on the draft report, "Tongass National Forest: Process Used to Modify the Forest Plan" (GAO/RCED-00-45, code 141357).

Enclosed are the comments to the draft report. These comments include those of a general nature pertinent to the draft report as a whole, such as setting the context within which the review team was directed to operate, as well as specific comments addressing factual errors and/or misinterppretations.

If you have additional questions, please contact the Agency's External Audit Liaison, Linda Washington at (202) 205-3761.

Sincerely,

Hilda Diaz-Soltero

HILDA DIAZ-SOLTERO
Associate Chief for Natural Resources

Enclosure(s)

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Response to GAO's draft report titled
Tongass National Forest: Process Used to Modify the Forest Plan
(GAO/RCED-00-45, code 141357)

I have reviewed GAO's draft report and provide the following comments. First I will discuss comments of a general nature, followed by comments to specific cites in the draft report.

See comment 1.

The major point to be made is setting the context of the review in terms of the review team's scope of review and available options as guided by direction and regulations. So as not to create confusion and misunderstanding, that context should be established early in the report.

To that point, I suggest that before describing why specific conservation measures were or were not developed and/or were or were not carried forward into the 1999 ROD, the report should clarify that the team was able to address the issues only in the context of information, actions, and analyses contained within the 1997 administrative record. As stated on page 3 of the 1999 ROD, "To reach my decision, I relied upon management scenarios (including land use designations) that have been analyzed and disclosed in the TLMP revision NEPA documents, and have been available to the public for review and comment." Thus, it is important to make clear early in the report that for the 1999 ROD, only information previously analyzed and disclosed for 1997 ROD was used. In the draft report this important point is not clearly articulated until the end of the document (top of page 44 and page 46, paragraph 2). Consequently, statements made earlier in the report are confusing and out of context. As one example, page 10, paragraph 2, and again on page 44, paragraph 3, it is stated that "the team lacked information on which to develop options for increasing protection of beach fringe." The team could have developed additional options to further protect beach fringe, but not within the scope of what had been previously analyzed and disclosed in development of the 1997 plan.

Now on pp. 45 and 46.

Now on pp. 12 and 46.

To further set the context, an early, up front discussion of the ex parte requirement should take place since the team's strict adherence to that requirement did not allow for clarifying communication with the Region, appellants, or intervenors.

Also, repeated references to "research" that the team conducted further adds to the confusion. Since the team conducted a review of the record to identify and evaluate options and/or strategies we suggest substituting the term "review" in place of the term "research" or "research and analysis" that occurs throughout the document.

See comment 2.

There appears to be a difference between what the report describes as an "option" and the options that are contained in the 1999 planning record. Options in the 1999 planning record are conservation measures that were developed and considered to address specific issues and sometimes multiple issues (see document 4-2-1 of the 1999 record, pages 00001283, 1284, 1285, 1288, 1294, and 1298 for examples of the many options that were developed and considered as part of the process). Based on the discussion on page 46, paragraph 2, it appears that "options" as used in the report are analogous to the alternatives in the 1999 planning record (see 1999 planning record document number 4-1-

Now on p. 47.

1

10, draft preliminary alternatives). The term option or options is used numerous times throughout the report and we suggest that the report be corrected for consistency with the 1999 planning record.

See comment 3.

Now on p. 4.

Now on p. 11.

The report accurately identifies that four issues were initially identified to the "science" team as issues of concern. However, it fails to include subsistence, cultural, and spiritual values as qualities for which special interest areas were considered and evaluated. This omission occurs several times in the document (Page 2, paragraph 3; Page 9, paragraph 2).

See comment 4.

See comment 5.

Now pp. 4 and 11.

Following are comments regarding specific cites in the report:

• Page 2, paragraph 2 and Page 7, paragraph 2:

The statement that this was "the first time an official above the Chief invoked his or her discretionary authority to decide appeals on a forest plan" is not accurate. The Under Secretary's office has on many occasions reviewed Chief's appeal decisions regarding forest plans. In several instances the Under Secretary has modified the Chief's appeal determination (e.g. San Juan- GMUG, Region 6 MMR appeals, Ouchita appeals). It would be more accurate to use the language noted below regarding the Secretary of Agriculture's role (see comment regarding Page 8, paragraph 1).

Now on p. 10.

See comment 6.

Now on pp. 4, 10, 11, 13, and 50.

• Page 2, paragraphs 1, 2, 3; Page 3, partial paragraph; Page 7, paragraphs 1and 2; Page 8, paragraph 1; Page 9, paragraph 1 (three times); Page 10, paragraph 1; Page 11, paragraphs 1 and 3; Page 13, paragraph 2 (twice); and Page 43, partial paragraph:

The report inaccurately describes a process in which the Department of Agriculture modified the 1997 Tongass plan then approved the modified Tongass forest plan in appeal decisions. The more accurate description of the process was that direction in the 1997 plan was modified based on a review of the appeals of the 1997 ROD approving the 1997 plan. A Record of Decision (ROD) approves a forest plan, not appeal decisions. The 1999 ROD and the appeal decisions were "approved" or signed in conjunction with each other or simultaneously. The 1999 ROD (Page 2) states, "I have also elected to exercise discretionary review of the administrative appeals relating to the Regional Forester's approval of the 1997 Forest Plan based upon the modifications in management direction I am approving today (Modified 1997 Forest Plan)." The statement ". . . modifications . . . I am approving today . . ." (emphasis added) means in the 1999 ROD. The relationship between the 1999 ROD and appeal decisions, is that the appeal decisions only describe, where appropriate, how the 1999 ROD addresses and remedies appeal issues. The 1999 ROD itself, not the appeal decisions, approves the modified direction in the plan.

See comment 7.

Now on pp. 4, 12, and 48.

• Page 2, paragraph 3; Page 10, paragraph 3; Page 47, paragraph 2:

The report makes the statement that one result of the Under Secretary's decision was "almost doubling the number of acres on which timber harvesting and other development activities are restricted." A comparison of the suitable timber base, which in 1997 was

2

676,000 acres (1997 ROD, page 7) and in 1999 was 576,000 acres (1999 ROD, page 12) shows a decrease of only 18%.

See comment 8.

Now on pp. 4, 12, and 46.

• Page 3, partial paragraph; Page 11, partial paragraph; and Page 47, paragraph 1:

The report states that the Under Secretary's modifications included "decreasing the allowable density of roads in areas that provide habitat for wolves." The Under Secretary modified a Guideline in the plan that states that a certain density of road may be necessary for wolf sustainability. Guidelines do not establish limits and there is no mention of what is or is not "allowable." Additionally, this modification as described in the report implies a broader application of the guideline than is characterized in the 1999 ROD. The 1999 ROD suggests that there may be a need to consder this guideline in areas where wolf mortality is high not "in areas that provide habitat for wolves." The guideline is more narrowly focused than is implied in the report.

See comment 9.

Now on p. 5.

• Page 3, paragraph 2:

The Tongass is 16.9 rather than 16.8 million acres. The statement, "About 60 percent of the Tongass is forested; the rest of the forest is composed of water, ice, and rock" is correct, but there is much more in the remaining 40 percent, or 6.95 million acres (Tongass Revision FEIS, page 3-265) than water, rock and ice, including alpine tundra, non-forested muskeg, and non-forested scrub (FEIS, page 3-319). It would be much more accurate to say "the rest of the forest is non-forested, and contains substantial acreages of muskeg, alpine tundra, water, ice and rock."

See comment 10.

Now on p. 5.

• Page 3, paragraph 2:

The statement ". . . the forested portion . . . or 5.7 million acres . . ." is incorrect. The forested portion of the Tongass that is "productive old growth" is 5.06 million acres, not 5.7 million (FEIS, page 3-21). This is "about half" of the forested portion (which 5.7 would not be).

See comment 11.

Now on p. 9.

• Page 4, paragraph 2:

The statement: "ANILCA prohibits federal land management agencies from allowing any use of federal lands that . . ." is incorrect. It should read: "ANILCA prohibits federal land management agencies from making decisions to withdraw, reserve, lease or otherwise permit the use, occupancy, or disposition of public lands that . . .."

See comment 12.

Another important aspect of the Tongass Timber Reform Act of 1990 (TTRA) is section 102 that provides:

> ANILCA is further amended by deleting section 705(d)(16 U.S.C. 539d(d)) in its entirety and inserting in lieu thereof: [d] All provisions of section 6(k) of the National Forest Management Act of 1976 (U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.

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See comment 13.

Now on p. 10.

• Page 6, paragraph 1:

What is the source of the definitions being applied for "affirmation" and "reversal?" Further, the regulations do not state any position regarding subsequent procedural requirements for ``significant changes." It would be more accurate to replace that discussion with a full quote of 36 CFR 217.16(a): "The Reviewing Officers's decision shall, in whole or in part, affirm or reverse the original decision. The Reviewing Officer's decision may include instructions for further action by the Deciding Officer."

See comment 14.

Now on p. 8.

• Page 6, paragraph 2:

". . . submitted by those who file appeals" should read ". . . . submitted by those who file appeals and by intervenors."

". . . but all appellants must be notified . . . " should read ". . . but all appellants and intervenors must be notified . . ."

". . . or any appellants without notifying all appellants" should read "or any appellants without notifying all appellants and intervenors."

See comment 15.

Now on p. 8.

• Page 7, paragraph 1:

The reason for including the discussion of the proposed planning regulations is unclear. As written, this discussion almost seems to imply that the proposed regulations were written specifically to address the 1999 Tongass decision process. Clearly they were not. Since the proposed rule is subject to change, discussion of the 1999 Tongass ROD in the context of the proposed regulations is speculative and is perhaps of little value. We suggest dropping this discussion from the report.

See comment 5.

Now on p. 10.

• Page 8, paragraph 1:

The statement, ``Moreover, while . . . someone above the Chief directly decided an appeal" should read, ``Moreover, while . . . someone above the Chief issued the initial administrative appeal decision."

See comment 16.

Now on p. 10.

• Page 8, partial paragraph:

"As of July 1999, 7 of . . . " should read, "As of July 1999, 11 of . . ."

Now on p. 10.

Page 8, paragraph 1:

The sentences, "All of the 130 original and revised forest plans have been appealed. Decisions have been reached on 118 of the appealed plans. Decisions have not been reached on the remaining 12 plans. As shown in table 1, of the 118 plans on which decisions have been reached, 110 were affirmed . . ." should read, "All but one of the 134 original and revised forest plans have been appealed. Decisions have been reached on

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127 plans. Decisions have not been reached on the remaining 8 plans. As shown in table 1, of the127 plans on which decisions have been reached, 119 were affirmed . . ."

Now on p. 10.

• Page 8, Table 1:

Modify the numbers in the table as follows:

Affirmed the forest plan	119
Total	127

See comment 17.
Now on p. 11.

• Page 10, paragraph 1:

"All forest plans are appealed . . ." should read "Most forest plans are appealed . . ."

See comment 18.
Now on p. 12.

• Page 10, paragraph 3:

The report inaccurately states that the Under Secretary "chose the option developed by the group of scientists that provides the greatest protection to old-growth forest, subsistence uses, and areas of special interest, but modified it by increasing the number of areas of special interest from 5 to 18 and deleting certain measures to protect deer and brown bear." The alternative that was chosen by the Under Secretary was rated in the record (document 4-1-10) as best among the five alternatives presented to the Under Secretary for native subsistence, deer winter range, and special places, but moderate among alternatives for viability and old-growth.

See comment 6.
Now on p. 12.

• Page 11, paragraph 1:

"The Under Secretary then chose to end the appeals process by afirming the modified plan in the appeal decisions" is a misstatement. First the appeal decisions did not affirm the 1999 ROD. Second, because his decisions are not appealable to a next higher level, by virtue of making the decision on both the 1999 ROD and the appeal decisions himself, the Undersecretary ended the appeal process.

See comment 6.
Now on p. 13.

• Page 11, paragraph 3:

"The Under Secretary's affirmation of the modified Tongass forest plan in the appeal decisions marked . . ." should read, "The Undersecretary's decision to approve the modified Tongass forest plan in the 1999 ROD marked . . . "

See comment 19.

• Page 12, partial paragraph:

It should be made clear that Department of Agriculture officials recognized that litigation on the Tongass plan and appeals was expected irrespective of the process used in 1999.

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See comment 20.
Now on p. 14.

• Page 12, paragraph 1:

We recommend replacing `` . . . as required by the TTRA" to `` . . . as provided for by the TTRA". The nature of the TTRA's ``requirements" is the subject on ongoing litigation (AFA v. USFS; FSEEE v. USFS) and use of a neutral term would be preferable.

See comment 21.
Now on p. 14.

• Page 12, paragraph 1:

". . . (2) NFMA by failing . . . " should read, "NFMA and NEPA by failing . . . "

See comment 6.
Now on p. 15.

• Page 12, paragraph 2:

"In addition, shortly after the Under Secretary affirmed the modified Tongass forest plan in appeal decisions in April 1999, an Alaska . . ." should read "In addition, shortly after the Under Secretary approved the modified Tongass forest plan in the 1999 ROD, an Alaska . . ."

See comment 11.
Now on p. 20.

• Page 16, paragraph 3:

The statement: "ANILCA prohibits federal land management agencies from allowing any use of federal lands that . . . " is incorrect. It should read: "ANILCA prohibits federal land management agencies from making decisions to withdraw, reserve, lease or otherwise permit the use, occupancy, or disposition of public lands that . . .."

See comment 22.
Now on p. 29.

• Page 26, paragraph 1:

Clarification in the paragraph on the 11 assessment panels is needed. The Sitka black-tailed deer panel was not an effects panel, its task was to update an existing habitat capability model for projecting deer effects; and the subsistence "panel" was not a panel but a "working group" and did not have the mission of assessing effects like most of the other panels.

See comment 23.
Now on p. 32.

• Page 30, Topic Heading:

"Forest Service and Solicits . . ." Strike "and".

See comment 23.
Now on p. 40.

• Page 37, paragraph 1:

"Appellants could also comment . . ." should read, "Intervenors also comment on appeals . . ."

See comment 23.
Now on p. 40.

• Page 37, paragraph 2

The statement, "In every instance . . . by affirming the 1997 plan" is incorrect. The statement should read, "With one minor exception, the decisions drafted by the team affirmed the Regional Forester's decision to approve the 1997 plan."

6

See comment 23.

Now on p. 41.

• Page 39, partial paragraph:

". . . 182 million board feet over the next decade" should read "182 million board feet per year over the next decade."

• Page 39, paragraph 1:

CHECK THE STATEMENT "THE SECRETARY ALSO INFORMALLY AGREED TO SEEK AN EXTENSION OF THE REMAINING LONG-TERM CONTRACT."

See comment 23.

Now on p. 42.

• Page 39, paragraph 2:

``". . . period established in the Forest Service planning regulations" should be ``. . . period established in the Forest Service appeal regulations"

See comment 24.

Now on p. 43.

• Page 40, paragraph 3:

The report's statement, "From the forest's 5.6 million acres of productive forestland, the 1997 Tongass forest plan set aside 613,000 acres of old-growth forest, withdrawing these acres from timber harvesting through the creation of a network of 'habitat conservation areas' designed to provide undisturbed habitat for wildlife" is misleading. The total acres of productive forestland (productive old growth) are 5.06 million (FEIS, page 3-21). However, this includes lands within Wilderness and other lands considered unavailable or unsuitable for timber management (FEIS, pages 3-19 and 3-265). The productive forestland that was available for forest plan land allocations was the "tentatively suitable" landbase of 2.4 million acres. From this base, Alternative 11 (1997 Forest Plan) removed 1.3 million acres of productive forestland from timber harvest, including areas within several land use designations (LUDs) that contributed to the overall habitat conservation strategy. It is not clear from where the 613,000 acre number in the report was derived. The Old Growth LUD included 443,000 acres of productive old growth (the LUD's total acreage was 1.1 million (FEIS, page 2-61)), but the overall reserve system includes small, medium and large productive old-growth reserves in several non-development LUDs. A total of 3.55 million acres of productive old-growth is protected in reserves (FEIS, page 3-429; Appendix N, page N-24).

See comment 25.

Now on p. 45.

• Page 43, paragraph 1:

Immediately proceeding ``The Under Secretary believed... "recommend adding reference to 7 CFR 2.20(a)(viii) the USDA regulation delegating responsibility to the Under Secretary to exercise the administrative appeal functions of the Secretary of Agriculture in review of decisions under 36 CFR Part 217.

See comment 1.

Now on p. 45.

• Page 44, partial paragraph:

The phrase ". . . research and analysis to information . . . plan's administrative records. The administrative record--a collection of over 53...." should read, ". . . review to information . . . plan's administrative and appeal records. The administrative and appeal records – a collection of over 53 . . ."

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See comment 1.
Now on p. 46.

• Page 44, paragraph 3:

As noted previously, the scope of the review was limited to information previously analyzed and/or disclosed during development of the 1997 plan. In that context, the maximum beach fringe protection was already in place. Consequently, options to further protect beach fringe were not available. However, while the issue was not specifically pursued, the amount of low elevation land and beach fringe in the areas of special interest areas was considered when evaluating the value of special interest areas to species viability and sustainability.

See comment 23.
Now on p. 47.

• Page 45, paragraph 1:

Discussion of the analysis and findings for deer subsistence is accurate but incomplete. The discussion should specify that all areas of the Tongass were analyzed for their ability to support deer not just those areas that have been identified as important for subsistence use. The discussion also should clarify that the ability of an area to support deer was evaluated in the context of future declines in habitat capability projected under the 1997 plan and on deer harvest levels described in the administrative record.

See comment 23.
Now on p. 47.

• Page 46, paragraph 1:

The document confuses viability and sustainability issues and concerns with respect to deer. For example, in the second paragraph on page 46, the document refers to viability of deer, wolf, and brown bear when characterizing option 4 and deer and brown bear viability when characterizing option 5. Deer throughout the 1999 ROD are addressed in the context of sustainability for subsistence use, not viability. This distinction should be carried forward into the report.

See comment 1.
Now on p. 48.

• Page 46, paragraph 2:

With regard to entire paragraph, note earlier comments regarding scope of review.

See comment 23.
Now on p. 49.

• Page 47, paragraph 2:

The phrase " . . . 1997 Tongass forest plan and drafted most of a modified plan" should read, " . . . 1997 Tongass forest plan and drafted most of the plan modifications."

See comment 23.
Now on p. 49.

• Page 47, paragraph 2:

The phrase, " . . . 19 draft appeal decisions to reflect the draft modified plan" should read, " . . . 19 draft appeal decisions to reflect the draft modifications."

See comment 23.
Now on p. 49.

• Page 48, paragraph 1:

The reference the report makes to "a member with little expertise" is less than the usual professional courtesy GAO provides and should be deleted. With regard to the "rudimentary formula," it was used not because of team member inexperience but

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because the Region's timber harvest planning model could not be used. Information not contained within the record could not be obtained without violating the ex parte communication standard, as described in the latter portion of the paragraph. Also, it should be noted that ASQ was an effect of the 1999 ROD's allocations and was not and did not have to be exact.

See comment 4.
Now on p. 50.

- Page 48, paragraph 3:

In the phrase, `` . . . new plan's failure to consider . . . " strike "new"

See comment 21.
Now on p. 50.

- Page 48, paragraph 3:

". . . allegedly in violation of NFMA . . . " should read "allegedly in violation of NFMA and NEPA . . . "

See comment 26.
Now on p. 35.

- Page 49, paragraph 2:

The long-term contact was not extended, but rather the termination date was adjusted. The contract was due to expire because of the terms of the 1997 agreement, not because of the closure of the pulp mill. The statements that the "administration also promised to offer around 300 mmbf of timber for sale over the next 2 years" and "These measures are designed to ensure a 3-year supply of wood for a proposed veneer plant in Ketchikan" are not accurate. The Administration did not make a specific promise of 300 mmbf, and could not unless there is sufficient NEPA cleared volume. Wording of this paragraph is troublesome since it is extremely sensitive due to ongoing litigation.

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T.he following are GAO's comments on the Forest Service's letter dated March 23, 2000.

GAO's Comments

1. A discussion of the prohibitions on ex parte contacts in federal regulations is included in the background section of the report. We revised the report to say that the review team was instructed (1) not to contact Forest Service officials in the Alaska Region or the appellants and (2) to limit its review and analysis to the administrative record for the 1997 Tongass forest plan and the existing appeals record. We also revised the report to say that (1) the review team was tasked with “analyzing” the administrative record, rather than “researching and analyzing” the record and (2) although increasing the protection of beach fringe was not specifically pursued, the amount of low-elevation land and beach fringe was considered in evaluating the value of areas of special interest to species' viability and sustainability.

2. We used “options,” rather than “alternatives,” in the draft report to distinguish between the alternatives that had previously been made available for public comment and the preliminary alternatives drafted by the review team. However, to be consistent with the administrative record for the 1999 plan, we changed “options” to “preliminary alternatives.”

3. We revised the draft report to include subsistence, cultural, and spiritual values as qualities for which special interest areas were considered and evaluated.

4. We changed “new” to “revised.”

5. We revised the report to say that, according to the Forest Service, it is not unusual for an Under Secretary to review, and on occasion direct the Chief to modify, appeal decisions. However, this was the first time that an Under Secretary approved substantive modifications to a forest plan and issued initial appeal decisions based on the plan, as modified.

6. We are aware that a Record of Decision approves the management direction in a forest plan and that appellants appeal the Record of Decision, not the forest plan. However, the result of an approved or signed Record of Decision is a revised or amended forest plan. Therefore, for clarity of presentation, we see no need to introduce the term “Record of Decision” into the report. We did, however, revise the report to make clear that the Under Secretary approved modifications to the management direction in

the 1997 Tongass forest plan and decided the appeals on the basis of the modified plan.

7. We revised the report to say that the modified plan removed another 234,000 acres from timber harvesting and other development activities.

8. In the Record of Decision, the Under Secretary states that he is "modifying the standard and guideline for open road density allowing 0.7 to 1.0 miles or less of open road per square mile in the Regional Forester's decision by limiting the allowance to 0.7 miles or less per square mile." A standard is a course of action or level of attainment required by a forest plan to promote the achievement of goals and objectives. Moreover, while the 1997 plan stated that open road densities of 0.7 to 1.0 miles or less per square mile "may be" necessary to reduce mortality, the applicable modification to the 1997 plan states that "open road densities of 0.7 miles or less per square mile are necessary to reduce mortality to sustainable levels." (Emphasis added.) However, to reflect the wording in the Record of Decision, we revised the report to say that the standard and guideline decreased the open road density in areas where roads have been determined to significantly contribute to wolf mortality.

9. We revised the report to say that the Tongass contains 16.9 million acres and deleted the reference to "water, ice, and rock."

10. The 5.7 million acres referred to in our report includes all lands suitable for providing wood products, not just the 5.06 million acres of productive old growth. Since about 60 percent (or 10.1 million acres) of the Tongass's 16.9 million acres is forested and 5.7 million acres are suitable for providing wood products, we calculated that 56 percent of the forested portion is considered to be productive.

11. We revised the report to say that under ANILCA, no withdrawal, reservation, lease, disposal, or other use of such lands that would significantly restrict subsistence uses shall be effected until the relevant land management agency determines that (1) the restriction is consistent with land management principles, (2) the restriction will involve the minimum amount of land necessary, and (3) action will be taken to minimize the restriction's adverse effects on subsistence uses.

12. We revised the report to say that (1) ANILCA exempted the Tongass from a NFMA provision restricting timber harvesting on lands identified as unsuitable for harvest and (2) the Tongass Timber Reform Act of 1990 made

the Tongass generally subject to NFMA's provision restricting timber harvesting on lands identified as unsuitable for harvest.

13. We revised the report to delete the definitions of affirmation and reversal and the reference to subsequent procedural requirements for significant changes. We also revised the report to state that the Chief's decision shall, in whole or in part, affirm or reverse the regional forester's decision and may include instructions for further action by the regional forester.

14. We revised the report to say that the regulations prohibit “ex parte” contact between the Chief and any agency officials who developed the forest plan or any appellants without notifying all appellants and intervenors.

15. We revised the report to make clear that the proposed new planning regulations were not developed specifically to address the process used to modify the management direction in the 1997 Tongass forest plan. However, it is important to make clear to the reader that, if the regulations are finalized, it is unlikely that this process will be used again.

16. We revised the report to reflect the suggested changes.

17. We revised the report to say that all but one forest plan have been appealed.

18. According to the issue paper prepared by the group of scientists, the preliminary alternative chosen by the Under Secretary “provides the greatest certainty of risk reduction for all identified issues.” Therefore, we made no changes to the report on the basis of this comment.

19. We deleted the sentence concerning the expectations of Department of Agriculture officials relating to the likelihood of litigation.

20. Because the nature of the Tongass Timber Reform Act's requirements is the subject of litigation, we revised the report to say that the level of timber to be offered is “in alleged violation” of the act.

21. We added “NEPA.”

22. We revised the report to state that, after the policy branch had developed the alternatives to be included in the revised supplement to the

draft forest plan, the science branch convened 10 panels of experts and specialists. Each of nine panels examined the potential effects of the nine alternatives on one of the following nine issues: the Alexander Archipelago wolf, the northern goshawk, the marbled murrelet, the American marten, the brown bear, terrestrial mammals, fish/riparian areas, old-growth forests, and communities. A tenth panel updated an existing habitat capability model for projecting the effects of the nine alternatives on the Sitka black-tailed deer. At the same time, a working group evaluated the risk each alternative could pose to subsistence uses.

23. We revised the report in response to these suggested changes.

24. We deleted the discussion on the number of acres of old-growth forest set aside by the 1997 forest plan. As discussed in comment 10, the 5.7 million acres referred to in our report includes all lands suitable for providing wood products, not just the 5.06 million acres of productive old growth.

25. We revised the report to state that the Secretary of Agriculture has delegated the responsibility for exercising his or her discretion to review the Chief's decision to the Under Secretary for Natural Resources and Environment.

26. We revised the report to say that the administration adjusted the termination date of the remaining long-term timber contract and made the adjustment conditional on the construction of a veneer plant near Ketchikan. We then provide a chronology of events relating to the adjustment.

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