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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

KETCHIKAN INDIAN COMMUNITY *et al.*,)
)
 Plaintiffs,) Case No. 1:26-cv-00017-ACP
)
 v.)
)
 UNITED STATES FOREST SERVICE *et al.*,)
)
 Defendants.)
)

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

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INTRODUCTION

Plaintiffs move for a preliminary injunction under Federal Rule of Civil Procedure 65(a) to prevent logging, road construction, and other ground-disturbing activities in the Shelter Cove Timber Sale area as authorized under the South Revillagigedo Integrated Resource Project (Project). Plaintiffs request a decision on this motion, if possible, before the Forest Service awards a contract for the sale which could be as soon as October 21, because activities could begin quickly thereafter.

The Forest Service's authorization of logging 83 million board feet (MMBF) in the Tongass National Forest (Tongass) violates the National Forest Management Act (NFMA), the Multiple Use and Sustained Yield Act (MUSYA), and the Alaska National Interest Lands Conservation Act (ANILCA). The Project on which the agency based the determinations required by these laws likely cannot be sold in its entirety due to a statutory prohibition on sales with negative appraisal values. Instead, the Forest Service will likely sell only the most economically valuable areas of the Project. For the Shelter Cove Timber Sale and any other future unknown timber sales composing the subset of the Project that appraises positively, the agency has not balanced choices about competing forest uses and shown the projected subsistence restrictions are necessary and use the minimum lands necessary, as required by NFMA, MUSYA, and ANILCA.

Logging and road construction authorized by the Project and Shelter Cove Timber Sale will destroy old-growth habitat, causing irreparable harm to old-growth dependent species, individuals who subsist on forest resources, and others who use and enjoy the

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Project area, including Shelter Cove. A preliminary injunction is necessary to prevent irreparable harm to Plaintiffs' ways-of-life and interests in the Tongass's habitat, wildlife, subsistence resources, and other important values, including in the Shelter Cove Timber Sale area.

BACKGROUND

The Tongass is an ecologically important landscape of old-growth habitat, anadromous fish streams, wetlands, and sensitive coastal habitat, inhabited since time immemorial by the Tlingit, Haida, and Tsimshian peoples who depend on the forest to sustain their subsistence way-of-life and cultural practices. Ex. 8 at 117-18¹; Ex. 20, ¶3. Both local communities and visitors also rely on the Tongass for recreation, tourism, and fishing. Ex. 6 at 4-6, 33, 48, 70-73; *see* Ex. 22, ¶14; Ex. 24, ¶12.

Like much of the Tongass, decades of old-growth logging in the Project area focused on the biggest trees offering both the highest timber values and the most valuable wildlife habitat. Ex. 5 at 12-13, 18-23, 32; Ex. 4 at 2. Clearcut logging destroys old-growth habitat, converting it to young growth that is less valuable for native species. Ex. 8 at 97-104. It takes centuries to repair this damage. *Id.* at 70. Roads fragment habitat, interfere with fish passage, and increase access and competition for hunters and

¹ Exhibits cited in support of likelihood of success on the merits are documents that should appear in the administrative record. *See* Glasscock Decl.

trappers, reducing wildlife populations and restricting subsistence uses. *Id.* at 101, 103-04, 118-121, 190.

Previous logging impacts make the remaining stands of old growth particularly important to species that depend on them, including bald eagles, bears, Sitka black-tailed deer, and Queen Charlotte goshawk. *Id.* at 89-91. Residents depend on subsistence hunting, fishing, and gathering in the Project area, which is less than 20 miles from Ketchikan. *Id.* at 5, 31-32, 117-18; Ex. 20, ¶3. Deer are an important subsistence resource, and historically, Ketchikan residents have harvested up to 70 percent of their deer from the Project area. Ex. 8 at 118.

The Project threatens these remaining old-growth dependent values and diverse forest uses. It allows logging up to 60 MMBF of old-growth trees, including thousands of acres of clearcut logging; constructing or reopening over 70 miles of roads; and construction work on two log transfer facilities. *Id.* at 37, 40, 42, 54. The Project will increase cumulative risk to goshawks, which depend on old growth for hunting and nesting across the Project area. *Id.* at 106, 108. The Project will also destroy high-value winter habitat for deer, likely reducing the deer population within the Project area. *Id.* at 97-98, 100. Due to decades of logging, the area has lost enough deer winter habitat that estimated deer density in the majority of the area is below the Forest Service's standard to support both wolves and subsistence deer hunters. *Id.* at 97, 101. Decreased deer abundance presents a significant possibility of restricting subsistence hunting of deer. *Id.* at 118-21.

Despite these harms, on July 29, the Forest Service authorized the Project, selecting the alternative calling for the most logging. Ex. 10 at 9, 38. However, the annual appropriations act prohibits the agency from advertising timber sales in Alaska when the “indicated rate is deficit,” meaning the timber value is less than the logging costs. Pub. L. No. 119-74, § 431, 140 Stat 5, 168 (2026) (2026 Appropriations Act). The agency’s analysis shows that the Project has a negative indicated rate ranging from \$(82.18) to \$(266.88) per thousand board feet, meaning the Project could not be offered as a whole. Ex. 8 at 81, 84.

Plaintiffs promptly filed this lawsuit on August 27. Doc. 1. On September 19, the Forest Service advertised the Shelter Cove Timber Sale, the first timber sale implementing the Project. Ex. 13 at 1; *see also* Exs. 12-17 (timber sale bid packet). It will open sealed bids on this sale on October 20 and may award a contract within a few days. Ex. 11 at 1, 3. On-the-ground operations could begin immediately after the sale is awarded and occur into December. *Id.* at 3; *see also* Ex. 19 (detailing efforts to avoid need for preliminary injunction and expedited consideration). Plaintiffs therefore request a preliminary injunction by October 21 to prevent irreparable harm from the sale’s ground-disturbing activities.

ARGUMENT

Plaintiffs satisfy all preliminary injunction factors: (1) they are likely to succeed on the merits; (2) they will suffer irreparable harm absent preliminary relief; (3) the balance of equities tips sharply in their favor; and (4) an injunction is in the public

interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see also All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011) (explaining Ninth Circuit’s sliding scale approach).

I. Plaintiffs are likely to succeed on the merits.

A. Plaintiffs have standing.

Plaintiffs’ citizens and members live near or visit the Project area, rely on the area’s fish, wildlife, and plants for subsistence, wellbeing, cultural and aesthetic values, and enjoy the area for hunting, fishing, wildlife viewing, recreation, and other activities. Ex. 20, ¶¶3-4, 6; Ex. 21, ¶¶5-7; Ex. 22, ¶14; Ex. 23, ¶¶3-5, 7; Ex. 24, ¶12; Ex. 25, ¶¶4-7; Ex. 26, ¶¶4-7. Ketchikan Indian Community’s (KIC) mission is to uphold the traditional way-of-life, ensure Tribal citizens can practice subsistence activities in the Tongass, and steward natural resources. Ex. 20, ¶3. Center for Biological Diversity’s and Southeast Alaska Conservation Council’s (SEACC) missions are to protect public lands and wildlife, including in the Tongass. Ex. 22, ¶¶4-5, 10-11, 19; Ex. 24, ¶¶3-4. The agency’s unlawful approval of the Project and Shelter Cove Timber Sale authorizing logging and roadbuilding will degrade important habitat, displace deer, and harm goshawks and other old-growth dependent species, injuring Plaintiffs’ citizens and members by interfering with their subsistence and recreational use and enjoyment of the Project area. Ex. 20, ¶¶3-4, 6; Ex. 21, ¶¶20-23; Ex. 22, ¶¶16-20; Ex. 23, ¶¶7-11; Ex. 24, ¶¶12-13; Ex. 25, ¶¶8-10, 12; Ex. 26, ¶¶8-17. A favorable decision from the Court would prevent these injuries by preventing logging and roadbuilding. Ex. 21, ¶¶26-27; Ex. 22, ¶20; Ex. 25, ¶12;

Ex. 26, ¶17. Thus, Plaintiffs have established standing. *See Friends of the Earth, Inc. v. Laidlaw Env't Servs., Inc.*, 528 U.S. 167, 180-84 (2000).

B. The Forest Service violated NFMA and MUSYA by balancing multiple uses for a project it cannot lawfully offer.

The Forest Service violated NFMA and MUSYA because the required weighing of multiple uses was based on a Project that, if offered in its entirety, would appraise negatively under all market conditions, which is barred by an Alaska-specific law that prohibits offering below-cost timber sales. For the actual project—the positively appraising timber sales the Forest Service could lawfully offer—the agency entirely failed to analyze the balance of uses, and its decision was therefore not in accordance with NFMA and MUSYA.

In addition to its separate obligation to protect subsistence opportunities, *infra* Section I.C., the Forest Service must manage National Forest System lands for multiple uses, ensuring that forest resources are “utilized in the combination that will best meet the needs of the American people” while “making the most judicious use of the land.” 16 U.S.C. §§ 529, 531(a). While Congress granted the agency “discretion to determine the proper mix of uses” in the forest, *Wyoming v. U.S. Dep’t of Agric.*, 661 F.3d 1209, 1268 (10th Cir. 2011), its weighing of forest uses must not be arbitrary or capricious. *See Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co. (State Farm)*, 463 U.S. 29, 43 (1983). The Forest Service must demonstrate that it has engaged in multiple use management by giving “due consideration” to the “relative values of the

various resources in particular areas,” 16 U.S.C. § 529, and appropriately “balanc[ing] competing demands.” *Lands Council v. McNair*, 537 F.3d 981, 990 (9th Cir. 2008) (en banc). The agency’s duty to satisfy its NFMA and MUSYA obligations and ensure the project is consistent with the forest plan “applies at the time of the decision, not at a speculative future date.” *WildEarth Guardians v. Jeffries*, 370 F.Supp.3d 1208, 1234 (D. Or. 2019).

To this end, NFMA sets out a “two-stage approach” to forest management. *Inland Empire Pub. Lands Council v. U.S. Forest Serv.*, 88 F.3d 754, 757 (9th Cir. 1996). At the first stage, the Forest Service promulgates forest-wide management plans, programmatic documents guiding resource management in the context of the broader landscape. *2-Bar Ranch Ltd. P’ship v. U.S. Forest Serv.*, 996 F.3d 984, 986 (9th Cir. 2021) (quoting 36 C.F.R. § 219.1(b)). The Tongass Land Management Plan (TLMP) sets overarching goals including sustaining diversity and productivity of ecosystems, viable populations of wildlife species, intact fish and wildlife habitat, outstanding scenery, and opportunities for recreation and subsistence. Ex. 7 at 12. Forest plans operate like zoning ordinances, determining the kind of uses that may be suitable within areas of the forest, but do not approve specific projects, like timber sales. 16 U.S.C. § 1604(e); Ex. 7 at 3; *see Citizens for Better Forestry v. U.S. Dep’t of Agric.*, 341 F.3d 961, 966 (9th Cir. 2003). In TLMP, the Forest Service zoned areas to several “Land Use Designations” (LUDs), but its obligation to ensure the appropriate balance of uses does not end there. *See* Ex. 7 at 3

(TLMP “gives general direction on what may occur within the area allocated to the corresponding LUD”).

At the second stage, the Forest Service proposes and analyzes alternatives and environmental consequences of site-specific projects, like timber sales. *Neighbors of Cuddy Mountain v. Alexander*, 303 F.3d 1059, 1061-62 (9th Cir. 2002); *Sierra Club v. Espy*, 38 F.3d 792, 795 (5th Cir. 1994); Ex. 7 at 4 (“Within the management framework, project-level planning is undertaken to develop proposed projects under [the land management plan].”). The Forest Service must ensure that projects are consistent with both the governing forest plan and the agency’s multiple-use management obligations, including its obligation to “conduct an analysis of each site-specific action” to consider the appropriate balance of uses under NFMA. *Idaho Sporting Cong., Inc. v. Rittenhouse*, 305 F.3d 957, 962 (9th Cir. 2002); 16 U.S.C. § 1604(i); Ex. 7 at 2-3.

Comporting with this multiple-use mandate, TLMP reiterates the Forest Service’s duty to manage for multiple uses when it authorizes a site-specific project by considering social, cultural, and economic issues implicated by the decision. Ex. 7 at 204, 293, 300-01. TLMP components for each LUD require the agency to make further choices to protect multiple uses. *Id.* at 131, 138. For example, even in areas TLMP designates suitable for timber harvest, such as the Modified Landscape and Timber Harvest LUDs where the Project’s logging units are located, *see* Ex. 8 at 5, TLMP’s goals include providing “a mix of resource activities,” Ex. 7 at 130, and “a spectrum of recreation and tourism opportunities,” *id.* at 137, not exclusively logging. Thus, at both the plan and

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project level, the Forest Service is obligated under NFMA, MUSYA, and TLMP to consider and strike an appropriate balance among the many important forest uses. *See, e.g., id.* at 136 (“Consider wildlife habitat needs during project planning and implementation.”), 143 (same), 214 (“Evaluate cumulative effects at the watershed scale during project planning”), 216 (subsistence uses), 236, 239 (deer and wildlife habitat). Even where TLMP allows logging, the agency must design projects to meet ecological, social, and economic needs. *Id.* at 130, 137, 219, 254-55.

Here, the Forest Service arbitrarily balanced multiple uses because its analysis was based on offering all 83 MMBF, without identifying how it could offer that full volume without violating the statutory prohibition against negatively appraising timber sales. *Infra* p. 10. The agency concluded the Project “provides a balanced approach to providing a sustainable level of forest products to contribute to the economic sustainability of the region” and “implements [TLMP] direction.” Ex. 10 at 26. In selecting the alternative authorizing the most logging, the agency reasoned it best met the Project’s purpose to create economic benefits, including as many as 364 logging-related jobs. *Id.* at 21, 24-26; Ex. 8 at 52. However, the Final Environmental Impact Statement (FEIS) shows the selected alternative currently cannot create these jobs because the costs exceed the timber’s value under any market scenario, and the sale of all 83 MMBF is therefore prohibited. Ex. 8 at 50-52 & 52 n.6 (showing negatively indicated advertised rates and estimated jobs under both market scenarios), 84, 86 & n.6 (same); 2026 Appropriations Act § 431. In fact, the selected alternative was estimated to appraise the *Ketchikan Indian Community et al. v. U.S. Forest Service et al.*,
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most negatively of the considered alternatives. Ex. 8 at 50, 84, 86. Indeed, the agency acknowledged that it could not offer negatively appraised timber sales and that “deficit value timber sales...support ‘zero jobs.’” *Id.* at 52 n.6, 81.

Thus, the Forest Service’s analysis is not based on realistic or lawful timber sales, and its conclusions that the 83-MMBF Project satisfies its stated purpose of providing economic benefits and best balances multiple uses are arbitrary. *See State Farm*, 463 U.S. at 43 (agencies act arbitrarily if they offer an explanation that runs counter to the evidence).

Compounding this problem, the Forest Service has not considered an appropriate balance among forest uses for any timber sale it might lawfully offer, including the Shelter Cove Timber Sale. In fact, the FEIS does not describe any sale that appraises positively or explain how the agency might achieve positive appraisal across the Project area. Nor does it say why the agency could not provide this information. Instead, the FEIS only offers a list of variables, such as sale configurations, road design adjustments, and updated market data, that could potentially enable individual sales of some units to appraise positively. Ex. 8 at 77, 83, 281; Ex. 9 at 5-6. But these variables do not apply across the entire Project area and therefore do not suggest the agency will be able to offer the whole timber volume over the course of the Project. *See* Ex. 9 at 5-6. For example, the four-MMBF Shelter Cove Timber Sale appraises positively, but is almost entirely road-accessible old-growth stands and includes five of the 13 units (Units 18, 19, 22, 34, and 40) for which the agency adopted a TLMP amendment allowing it to waive scenery

objectives and authorize more clearcutting. Ex. 15 at 6-7; Ex. 8 at 27-29, 57, 122, 131-32; Ex. 10 at 108-09, 114-20, 124-25, 152-54, 158-59, 166-68, 175-78, 181-86. These cost-saving attributes do not apply to all remaining 79 MMBF authorized in the Project, and the Forest Service has not identified other meaningful ways of achieving positive sales across the entire Project.

Thus, the Forest Service did not provide any analysis to show whether what it can lawfully sell, including the Shelter Cove Timber Sale, strikes an appropriate balance of economic benefits compared to its impacts on subsistence, wildlife, habitat, and other forest values. This failure is significant because different sale configurations will have different harms and benefits, so the Forest Service might have struck a different balance had it analyzed the actual project. For example, the most economically valuable trees also often provide the most critical habitat for old growth-dependent wildlife. Ex. 5 at 12-13, 18-23, 32. Logging only the most valuable old-growth stands in the Project area might reduce the number of jobs the Project creates, Ex. 8 at 81 (total jobs depends on the amount of volume offered), but might still harm the most important areas for subsistence and wildlife. Without such analysis, the agency cannot rationally weigh “the relative values of the various resources in particular areas” to determine the appropriate balance of those uses. 16 U.S.C. §§ 529, 531(a).

The Forest Service’s failure to balance multiple forest uses based on a project it can lawfully offer, rather than the Project the record indicates it likely cannot lawfully offer, is not in accordance with NFMA and MUSYA. *Id.* §§ 529, 531(a); 16 U.S.C.

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§ 1604(i), 1607; *see Ctr. for Biological Diversity v. Zeldin*, 171 F.4th 356, 376 (D.C. Cir. 2026) (“[A]gency action that ‘violates [a statute] is not in accordance with law within the meaning of [the Administrative Procedure Act].’” (quoting *Chrysler Corp. v. Brown*, 441 U.S. 281, 318 (1979) (alterations in original))).

C. The Forest Service’s conclusions that the Project is a necessary restriction on subsistence and uses the minimal amount of public lands violate ANILCA.

In ANILCA, Congress sought to “protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents.” 16 U.S.C. § 3111(4). Congress adopted a policy that “consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands.” *Id.* § 3112(1); *see also Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 544 (1987) (“[t]he purpose of ANILCA § 810 is to protect Alaskan subsistence resources from unnecessary destruction”); *Ctr. for Biological Diversity v. BLM*, 141 F.4th 976, 1006 (9th Cir. 2025) (ANILCA “provide[s] a broad outline of what uses must be preferred over others” (quoting *United States v. Alexander*, 938 F.2d 942, 945 (9th Cir. 1991))).

To effectuate this subsistence protection, ANILCA requires that before authorizing a project the Forest Service must determine whether the use of lands would significantly restrict subsistence uses. 16 U.S.C. § 3120(a). If it does, the agency may only authorize the project after notice and hearings. *Id.* The agency must then make several findings,

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including that (1) “a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands,” and (2) the action involves “the minimal amount of public lands necessary” to accomplish the action’s purposes. *Id.* § 3120(a)(3)(A)-(B). These findings must be made available in a project’s EIS, *id.* § 3120(b), and be based on “specific information about the actual, not the potential, proposed action.” *Se. Alaska Conservation Council v. U.S. Forest Serv. (SEACC)*, 443 F.Supp.3d 995, 1017 (D. Alaska 2020).

The Forest Service concluded the Project may significantly restrict subsistence uses of deer because it will destroy deer winter habitat, without which deer are less likely to survive harsh winter weather. Ex. 8 at 121. The agency then concluded the restriction was necessary and involved the minimal amount of public lands. *See* Ex. 10 at 31-32. While the Forest Service asserts that it selected the maximum logging alternative to provide “flexibility” to create positively appraising sales that it could legally offer during implementation, *id.* at 21; Ex. 8 at 8, delaying those choices to implementation means the agency has not analyzed the effects of such sales on subsistence. In *SEACC*, this Court held the Forest Service violated ANILCA where it made these findings prior to deciding the specific location or extent of logging and road construction which limited its ability to make informed decisions about subsistence use impacts. 443 F.Supp.3d at 1017-18. Here, the agency violated ANILCA because it failed to make the required determinations for a lawful project. *See supra* pp. 4, 10; *State Farm*, 463 U.S. at 43; *SEACC*,

443 F.Supp.3d at 1017-18; *Ctr. for Biological Diversity*, 171 F.4th at 376; 5 U.S.C. § 706(2)(A); 16 U.S.C. § 3120(a)(3)(A)-(B).

1. The Forest Service’s “necessary restriction” finding is arbitrary because it is based on a Project the agency likely cannot offer.

The Forest Service concluded the Project is a necessary restriction on subsistence based solely on its conclusion that the Project “balance[d] between meeting the resource needs of the public and protecting forest resources.” Ex. 10 at 32. This finding is arbitrary because the agency likely cannot legally offer the whole Project. *Supra* pp. 4, 10. Instead, it will offer a subset of the Project in sales that necessarily strike different balances between meeting public resource needs and protecting forest resources.

This Court has held that the Forest Service’s necessary determination for a timber sale is arbitrary and capricious when it relies on inaccurate and misleading information. *Organized Vill. of Kake v. U.S. Forest Serv.*, 2007 WL 9718427, *7 (D. Alaska Sep. 26, 2007) (holding necessary determination arbitrary where the Forest Service relied on inaccurate and misleading market demand figures); *cf. Hoonah Indian Ass’n v. Morrison*, 170 F.3d 1223, 1227 (9th Cir. 1999) (upholding the agency’s determination based on an actual timber sale the agency planned to offer and non-arbitrary findings about the contributions it would make to Southeast Alaska’s economy).

Here, the record shows the Forest Service is likely unable to even offer the Project it determined was necessary. *Supra* pp. 4, 10. For any future potential sale from the Project, including the Shelter Cove Timber Sale, the agency has not disclosed what

benefits those sales might have, and whether subsistence restrictions could be avoided or lessened by offering a different mix of sales. Ex. 10 at 9 (stating only that timber will be “offered in one or more timber sales”). For example, had the agency analyzed the question of necessity based on smaller, positively appraised sales it could lawfully offer, it might have ultimately concluded that a restriction of subsistence is not necessary, given the more limited economic benefit.

Making the necessary finding based on a Project that is not the actual utilization of lands is arbitrary and circumvents ANILCA’s subsistence protections in violation of the statute. 16 U.S.C. § 3120(a)(3)(A); *SEACC*, 443 F.Supp.3d at 1017-18.

2. The Forest Service’s “minimum lands” finding is not in accordance with law because the agency likely cannot offer the full Project.

The Forest Service found the amount of land necessary to implement the full, negatively appraised Project is the minimum necessary to accomplish the Project’s purposes, Ex. 10 at 32, but the agency likely cannot even offer that full Project. *Supra* pp. 4, 10. Thus, the minimum lands finding is arbitrary because the agency’s analysis shows it will have to create a smaller project that uses less land.

This case contrasts with *Hoonah Indian Association*, in which the Court upheld the agency’s minimum lands finding based on conclusions, supported by the record, about the ability of an actual project to accomplish the purposes for which it was authorized. 170 F.3d at 1229-30. As evidenced by its own record, that is not the case for the whole Project here. The Forest Service’s minimal lands finding is thus arbitrary and

its failure to evaluate and make findings for an actual project is not in accordance with ANILCA. 16 U.S.C. § 3120(a)(3)(B); *SEACC*, 443 F.Supp.3d at 1017-18.

II. Plaintiffs will suffer irreparable harm without an injunction.

Logging and road construction will irreparably harm Plaintiffs and their citizens and members who use and enjoy the Tongass for its irreplaceable resources and values, warranting injunctive relief. Environmental injury “can seldom be adequately remedied by money damages and is often permanent or at least of long duration, *i.e.*, irreparable.” *Amoco Prod. Co.*, 480 U.S. at 545. Injuries to food security and cultural identity are irreparable harms because they are difficult if not impossible to remedy. *See United States v. Alaska*, 608 F.Supp.3d 802, 810-11 (D. Alaska 2022). “[N]o practical alternative means are available to replace the...wildlife which supply rural residents dependent on subsistence uses[.]” *Native Vill. of Quinhagak v. United States*, 35 F.3d 388, 394 (9th Cir. 1994) (quoting 16 U.S.C. § 3111(2)). Loss of traditional subsistence food causes irreparable harm to community cultural values. *See Quinhagak*, 35 F.3d at 394.

Plaintiffs’ citizens’ and members’ ways-of-life are integrally intertwined with their subsistence use of the Tongass, including the Shelter Cove area, the location of the timber sale. Ex. 20, ¶¶3-4, 6; Ex. 21, ¶¶5-7, 26-27; Ex. 27, ¶¶8-10; Ex. 25, ¶¶4-6; Ex. 26, ¶6. “[T]he continuation of the opportunity for subsistence uses by rural residents of Alaska...is essential to [Alaska] Native physical, economic, traditional, and cultural existence....” 16 U.S.C. § 3111(1). Subsistence use of the Project area is already high *Ketchikan Indian Community et al. v. U.S. Forest Service et al.*,
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and has increased since the 2025 completion of the Ketchikan-Shelter Cove Road, which connects Ketchikan to the Shelter Cove Timber Sale area. Ex. 8 at 118, 120. KIC citizens rely on the Saddle Lakes and Shelter Cove area for hunting deer and gathering berries, cedar bark, and medicinal plants for subsistence and to pass on cultural practices to the next generation. Ex. 20, ¶¶3-4, 6; Ex. 21, ¶¶5-7, 26-27. SEACC's members also use these areas for gathering berries, fishing, and hunting. Ex. 25, ¶4; Ex. 27, ¶¶8-9. Subsistence hunters and fishers rely on subsistence resources as reliable sources of protein. Ex. 25, ¶¶4, 6. Successful deer hunts are also shared amongst community members. Ex. 21, ¶5. Plaintiffs' citizens' and members' enjoyment of these activities depends on intact, old-growth habitat.

Logging and road construction will irreparably harm subsistence users by clearcutting high-value deer winter habitat, reducing deer habitat capability and deer abundance. Ex. 8 at 69-70, 97-99. The FEIS explains that the effects would be realized immediately and intensify over time. *Id.* at 99. As a result, the Project would significantly restrict Plaintiffs' citizens' and members' subsistence deer hunting. *Id.* at 121; Ex. 20, ¶6; Ex. 21, ¶¶20, 22. Hunting in second-growth areas is difficult because the deer are often not found there. Ex. 26, ¶¶10, 12-13; Ex. 25, ¶8.

Additionally, logging old growth destroys cedar trees used by KIC citizens for cultural purposes, including basket weaving, canoes, and totem poles. Ex. 21, ¶¶5, 7, 11, 20-21, 23-24. KIC President Burns notes the Forest Service has not provided adequate protection for cultural trees. Ex. 20, ¶6. KIC citizens will be harmed because cedar trees

suitable for cultural purposes will not be replaced for generations, impeding cultural practices being passed down. *Id.*; Ex. 21, ¶¶11, 20-21, 23-24. These harms to subsistence and cultural trees will negatively impact KIC's ability to maintain its traditional way-of-life. Ex. 20, ¶6.

Additionally, Plaintiffs' citizens and members value the Shelter Cove area for its remaining intact old-growth stands, which provide excellent opportunities for camping, hiking, photography, wildlife viewing, and other recreational activities. Ex. 21, ¶¶5-6, 26-27; Ex. 22, ¶14; Ex. 23, ¶¶3-5, 7-8; Ex. 24, ¶12; Ex. 25, ¶¶4-7; Ex. 26, ¶¶4-7; Ex. 27 ¶¶7-8, 10. Members derive psychological benefits and spiritual renewal from recreating in old-growth stands. Ex. 23, ¶¶5, 8; Ex. 25, ¶¶6-7; Ex. 26, ¶14. They also value the Shelter Cove area for opportunities to hike and photograph old-growth forest and wildlife. Ex. 23, ¶8.

Without injunction, logging and road construction will irreparably harm Plaintiffs' subsistence and recreational uses, like hunting and fishing, wildlife viewing, and photography, that depend on the area's healthy ecosystem. Ex. 20, ¶6; Ex. 21, ¶¶20-22; Ex. 23, ¶¶7-9; Ex. 24, ¶¶12-13; *see, e.g., Earth Island Inst. v. U.S. Forest Serv.*, 351 F.3d 1291, 1299 (9th Cir. 2003) (collecting cases); *All. for the Wild Rockies*, 632 F.3d at 1135; *see also Se. Alaska Conservation Council v. U.S. Forest Serv.*, 413 F.Supp.3d 973, 981 (D. Alaska 2019).

During operations, travel on roads, including the Shelter Cove Road, will be impeded by logging vehicles. Ex. 21, ¶20; Ex. 25, ¶8. The noise from logging and road
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construction disrupts members' experiences and drives away wildlife they hope to see. Ex. 25, ¶¶8; Ex. 23, ¶¶10. The harms continue long after operations cease because old-growth clearcut logging destroys and fragments habitat, reduces wildlife abundance, and degrades water quality and fish habitat. Ex. 8 at 97-104, 107, 118-21, 190; Ex. 21, ¶¶20-22; Ex. 22, ¶¶16-17; Ex. 23, ¶¶9-11; Ex. 24, ¶¶12-13; Ex. 26, ¶¶8-17; Ex. 25, ¶¶8-10, 12. The loss of old-growth trees harms everything from microbiota and fungi to berries, deer, and salmon, and these effects are detrimental to the long-term health of the forest. Ex. 26, ¶¶13. Clearcut areas lose biodiversity, leading to cemetery-like places that do not provide the solace and spiritual renewal members seek from old-growth stands. Ex. 23, ¶¶5-6; Ex. 26, ¶¶14. Regrowth after a clearcut is thick and hard to navigate, impeding hunting, hiking, and other activities for decades. Ex. 26, ¶¶8-10; Ex. 25, ¶¶8-9. Young-growth stands do not provide the same high-quality habitat for wildlife. Ex. 8 at 97-104, 190[FEIS88-95, 181]; *see* Ex. 26, ¶¶13, 16. Roads left after logging often concentrate hunters to the same area, which increases competition and may lead to hunting restrictions. Ex. 26, ¶¶11-12.

These harms would begin immediately during operations, which could begin as soon as the contract is awarded, Ex. 11 at 3-4, and would be effectively permanent because—by the Forest Service's own description—logging and road construction in old-growth forest is an “irretrievable commitment,” and old-growth characteristics would not return “for 150 years or more.” Ex. 8 at 69-70, 99. “The logging of mature trees, if indeed incorrect in law” is irreparable because “[n]either the planting of new seedlings

nor the paying of money damages can normally remedy such damage.” *League of Wilderness Defs./Blue Mountain Biodiversity Project v. Connaughton*, 752 F.3d 755, 764 (9th Cir. 2014).

III. The balance of harms tips sharply in Plaintiffs’ favor.

The irreparable harm to Plaintiffs from the permanent impacts of logging and road construction on forest habitat, wildlife, and subsistence resources substantially outweigh any temporary harm to Defendants from issuance of a preliminary injunction. When environmental injury is “sufficiently likely,” the balance of harms “will usually favor the issuance of an injunction to protect the environment.” *Amoco Prod. Co.*, 480 U.S. at 545. As discussed, *supra* pp. 16-20, Plaintiffs and their citizens and members would be immediately, substantially, and permanently harmed by logging and road construction activities because such activities destroy and fragment old-growth forest stands, destroying opportunities for subsistence, recreation, photography, and other activities requiring intact old-growth stands.

Any claims of economic loss by Defendants do not outweigh these harms. *See Nat’l Parks & Conservation Ass’n v. Babbitt*, 241 F.3d 722, 738 (9th Cir. 2001) (“[L]oss of anticipated revenues...does not outweigh the potential irreparable damage to the environment.”), *abrogated on other grounds by Monsanto v. Geertson Seed Farms*, 561 U.S. 139 (2010). The Court weighs “[o]nly the portion of the [economic] harm that would occur while the preliminary injunction is in place” against plaintiffs’ irreparable injuries caused by logging. *League of Wilderness Defs.*, 752 F.3d at 765.

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Here, a preliminary injunction would cause only minimal, temporary inconvenience to the Forest Service. The agency has not yet accepted any bids or awarded any contracts for the Shelter Cove Timber Sale. Logging cannot begin until the agency awards a contract and then for only a month or two before winter. Ex. 11 at 4. The requested temporary injunction would likely delay at most two months of logging and road construction this year. Plaintiffs are seeking a limited order preventing logging, road construction, and ground-disturbing activities to preserve all parties' relative positions until the merits are resolved, which can occur before the 2027 logging season begins. *See Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981) (explaining purpose of preliminary injunction is to preserve the parties' relative positions until merits are resolved). Prospective bidders are on notice about this lawsuit. Ex. 14 at 2. Thus, any harm caused by delaying awarding the Shelter Cove Timber Sale only until this Court reaches a decision on the merits would be minimal.

Financial hardships are “outweighed by the fact the old growth forests plaintiffs seek to protect would, if cut, take hundreds of years to reproduce.” *Idaho Sporting Cong. Inc. v. Alexander*, 222 F.3d 562, 569 (9th Cir. 2000) (quotation omitted). Therefore, “the balance of equities tips toward the...[P]laintiffs, because the harms they face are permanent,” while government or business interests only “face temporary delay.” *League of Wilderness Defs.*, 752 F.3d at 765.

IV. A preliminary injunction advances the public interest.

The public interest favors granting this injunction. Ensuring faithful compliance with federal laws comports with the public interest. *All. for the Wild Rockies*, 632 F.3d at 1138 (quotation omitted); *League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016). Additionally, courts factor in the “broader public interest in the preservation of the forest and its resources.” *Earth Island Inst.*, 351 F.3d at 1308. “[T]he public interest in preserving nature and avoiding irreparable environmental injury outweighs economic concerns.” *Lands Council*, 537 F.3d at 1005. Thus, requiring the Forest Service to comply with its legal obligations before it cuts trees that will take hundreds of years to regain old-growth characteristics is “a public interest of the highest order.” *Seattle Audubon Soc’y v. Evans*, 771 F.Supp. 1081, 1096 (W.D. Wash. 1991), *aff’d in part and rev’d in part on other grounds*, 952 F.2d 297 (9th Cir. 1991).

CONCLUSION

For the foregoing reasons, Plaintiffs request this Court enter a preliminary injunction preventing logging, road construction, and other ground-disturbing activity under the Shelter Cove Timber Sale until this Court has resolved the merits of Plaintiffs’ claims.

Respectfully submitted this 30th day of September, 2026.

s/ Olivia Glasscock

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EARTHJUSTICE

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CERTIFICATE OF COMPLIANCE WITH WORD LIMIT

I certify that this brief contains 5698 words, excluding items exempted by Local Civil Rule 7.4(a)(4), and complies with the word limit of Local Civil Rule 7.4(a)(2).

Respectfully submitted this 30th day of September, 2026.

s/ Olivia Glasscock

Olivia Glasscock (Alaska Bar No. 1809072)
EARTHJUSTICE

CERTIFICATE OF SERVICE

I certify that on September 30, 2026, a copy of the foregoing PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION, with attachments, was served electronically through the CM/ECF system on counsel of record.

s/ Olivia Glasscock

Olivia Glasscock (Alaska Bar No. 1809072)

EARTHJUSTICE

TABLE OF EXHIBITS

Exhibit No.	Description
1-3	Omitted
4	Southeast Alaska Conservation Council & Defenders of Wildlife, Scoping Comments Re: Revised Notice of Intent for South Revilla Integrated Resource Project (IRP) (July 31, 2019)
5	U.S. Forest Service, Tongass Land and Resource Management Plan, Final Environmental Impact Statement, Plan Amendment (Jan. 2008) (excerpts)
6	U.S. Forest Service, Tongass Land and Resource Management Plan, Final Environmental Impact Statement, Plan Amendment (June 2016) (excerpts)
7	U.S. Forest Service, Tongass National Forest, Land and Resource Management Plan (Dec. 2016) (excerpts)
8	U.S. Forest Service, South Revillagigedo Integrated Resource Project, Final Environmental Impact Statement (Jan. 2026) (excerpts)
9	U.S. Forest Service, South Revillagigedo Integrated Resource Project, Environmental Impact Statement, Tongass National Forest, Objection Statements and Responses (Apr. 2026) (excerpts)
10	U.S. Forest Service, South Revillagigedo Integrated Resource Project, Record of Decision (July 2026)
11	U.S. Forest Service/U.S. Department of Justice, Emails with Earthjustice, Re: Ketchikan Indian Community v. US Forest Service (Aug. 28, 2026-Sep. 23, 2026)
12	U.S. Forest Service, Shelter Cove Timber Sale, Bid Letter (Sep. 17, 2026)
13	U.S. Forest Service, Shelter Cove Timber Sale, Bid for Advertised Timber (undated)
14	U.S. Forest Service, Shelter Cove Timber Sale, Timber Sale Prospectus (undated)

- 15 U.S. Forest Service, Shelter Cove Timber Sale, Sale #26037, Timber Sale Report and Cost Development (Sep. 18, 2026) (unsigned)
- 16 U.S. Forest Service, OFFICIAL R10 2026Q1 RV Appraisal 070226 Shelter Cove TS, Appraisal of Record (Sep. 18, 2026)
- 17 U.S. Forest Service, Shelter Cove Timber Sale, Timber Sale Area Maps (undated)
- 18 U.S. Forest Service, Shelter Cove Timber Sale, Legal Notice, Ketchikan Daily News (Sep. 19, 2026)
- 19 U.S. Department of Justice, Emails with Earthjustice, Re: Ketchikan Indian Community v. US Forest Service (Sep. 23-29, 2026)
- 20 Declaration of Gloria *Ilxileé Stáng* Burns
- 21 Declaration of Irene Dundas
- 22 Declaration of Cooper Freeman
- 23 Declaration of Robin D. Silver
- 24 Declaration of Maggie Rabb
- 25 Declaration of Susan Walsh
- 26 Declaration of Mike Sallee
- 27 Declaration of Phillip Kelley Roth