

Lead NEPA Story: Trump administration advances old-growth logging

(Greenwire, 9/25/2020), Marc Heller, E&E News Reporter

The Trump administration took a major step late yesterday toward opening previously off-limits areas of Alaska's Tongass National Forest to old-growth logging, releasing an environmental study that supports the change.

The final environmental impact statement sets in motion regulatory moves the Department of Agriculture must make to exempt all 9.37 million acres of designated roadless areas in the Tongass from the Roadless Area Conservation Rule, a national framework dating to 2001.

Groups following the issue said they expect Agriculture Secretary Sonny Perdue to approve the full exemption as the administration has consistently supported and as requested by Alaska's governor and other elected officials.

The final EIS now moves to EPA for a 30-day review, after which Perdue can make a determination."

The final environmental statement veers little from a draft released last October. The agency made minor adjustments, such as identifying areas that had been logged during a short period when the forest was exempted from the roadless rule during the George W. Bush administration. Adjustments to roadless area maps added about 30,000 acres from what was originally designated in 2001, the agency said.

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Executive Order 12898 on Environmental Justice and Clean Air Act: How EPA rollbacks evade 1994 order

(Greenwire, 9/28/2020) Sean Reilly, E&E News Reporter

If the Houston area has long been an economic powerhouse, it's also been a perennial slough for toxic air pollution linked to cancer and other ailments that disproportionately afflicts poor and minority areas.

But when EPA moved to lock in a national rollback of long-standing hazardous pollutant requirements last year, officials saw no need to study the effects on those communities in Houston and elsewhere despite a 1994 executive order requiring agencies to assess environmental justice concerns.

EPA's stated reason: Repealing the "once in, always in" policy "does not establish an

environmental health or safety standard," the draft rule says.

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That boilerplate rationale has figured in dozens of EPA rulemakings in recent years, even though the phrase doesn't appear in President Clinton's executive order.

In most instances, the regulations in question have been technical or narrowly focused. But the wording in this case speaks to the ease with which EPA and other agencies can shrug off the order's directive. It also promises to reemerge as a flashpoint if included in the final rule, which is likely to be released within the next few days.

"EPA completely ignored the E.J. impacts of this proposal despite the availability of data that would allow it do so," Environmental Defense Fund lead attorney Tomás Carbonell said in a recent interview.

In written comments filed on the draft rule last year, Carbonell and a Sierra Club lawyer wrote that communities of color and low-income people would be among those bearing the brunt of the proposal's "toxic impacts."

As drafted, the EPA air pollution proposal would scrap the 1995 "once in" framework, designed to permanently maintain strict emissions limits on refineries, power plants and other industry operations initially classified as "major" sources of hazardous pollutants.

Under that framework, those facilities had to leave "maximum achievable" pollution controls in place even after their emissions fell below the thresholds that triggered the original designation as a major source.

With the policy's demise, plants whose releases drop below those limits can seek regulatory reclassification as "area" sources subject to lesser control requirements.

The proposal aims to cinch EPA's 2018 initial decision to undo the "once in" policy via a brief memo.

More than 3,900 plants could be eligible to switch, according to an EPA analysis also released last year.

Among those facilities: 149 refineries, 238 petrochemical facilities and 72 fossil fuel-powered generating stations, the analysis said.

As grounds for rescinding the policy, EPA says it's contrary to the "plain language" of the Clean

Air Act and effectively discourages businesses from striving to cut emissions below annual thresholds for major sources, set at 10 tons of a single hazardous pollutant or 25 tons of any combination of air toxics.

"This proposal would relieve reclassified facilities from regulatory requirements intended for much larger emitters and encourage other sources to pursue innovations in pollution reduction technologies, engineering, and work practices," the agency said in a news release last year.

That upbeat perspective is widely shared among major business groups. In comments, the U.S. Chamber of Commerce and more than a dozen industry trade organizations dismissed predictions of a potential emissions increase as "entirely misplaced."

EPA's analysis acknowledged the potential for more pollution, but it predicted that individual regulators would hold the line in rewriting plant permits.

Absent from the roughly 300-page document is any mention of the Clinton executive order, which directed agencies to address "disproportionately high and adverse" health and environmental consequences stemming from their activities on minority and low-income populations.

Where did EPA's rationale come from?

The Environmental Defense Fund warned in a 2018 report about the impacts of toxic emissions in that corner off the Gulf of Mexico.

Toxic releases from just 18 plants in the Houston-Galveston area could spike almost 146% in comparison with 2014 levels, EDF found.

A hotbed of fuel and petrochemical production, the area has long been beset with some of the nation's worst air quality. Its industries spewed almost 17.7 million pounds of hazardous pollutants in 2018, according to the most recent numbers available from EPA's Toxics Release Inventory. That total was up about 5% from the preceding year. The releases included ammonia, toluene and hydrogen cyanide.

In the mid-2000s, worries about the health effects were pressing enough that then-Houston Mayor Bill White prompted formation of a task force to study the issue. In a 2006 report, the task force found that hazardous pollutants were more prevalent in East Houston communities with large proportions of low-income, Black and Latino residents.

"In sum, East Houston neighborhoods that face a number of vulnerabilities based on their marginal social and economic standing also carry a heavier burden of health risks from breathing pollutants in their air," the report said.

Fourteen years later, "that picture hasn't changed except for the recent explosions at chemical plants in the area," Stephen Linder, a professor at the University of Texas' Houston campus who served as the task force's coordinator, said in an email last week.

In contending that the Clinton environmental justice order didn't apply to the proposed repeal of the "once in" policy because it doesn't set environmental health or safety standards, EPA resorted to a rationale initially used in 2016, according to a search of *Federal Register* notices.

The agency first employed the phrase in a July 2016 Obama-era rule on a Clean Air Act deadline extension, the search indicates. Its origins remain unclear.

Several EPA officials at the time, including then-enforcement chief Cynthia Giles and Mustafa Santiago Ali, who oversaw environmental justice efforts, said they didn't know its origins. The agency's current environmental justice director, Matthew Tejada, referred question to EPA's press office.

Earlier this month, spokeswoman Molly Block cited the fact that the final version of the rule was undergoing a standard review by the White House regulations office in declining to answer questions about the phrase's use or critics' concerns about the possible effects on poorer and minority communities.

That review is now over. Block and other press aides failed to reply to a follow-up email sent last Wednesday restating the questions.

It's unclear whether EPA undertook any additional analysis to address environmental justice issues in the course of preparing the final rule.

As E&E News reported September 18, critics say career EPA employees have long resisted incorporating those concerns in the agency's day-to-day work.

Lawsuits

Also raising alarms about the possible effects on disadvantaged communities are California state officials who joined environmental groups in suing to block EPA from pursuing the rollback after release of the 2018 memo.

Their combined challenges failed last year after a split panel on the U.S. Court of Appeals for the District of Columbia Circuit ruled that the memo didn't amount to a final agency action subject to judicial review.

Assuming the final rule aligns with the draft, a fresh round of lawsuits is all but certain. In the comments filed last year, the Environmental Defense Fund and Sierra Club accused EPA of violating the Clinton-era executive order by failing to consider the possible health and environmental impacts on disadvantaged areas "to the greatest extent practicable."

Citing the fact that the final rule hasn't yet been released, Carbonell declined to comment last Friday on whether such arguments could find their way into a fresh lawsuit. At the Institute for Policy Integrity, a think tank based at New York University School of Law that also opposes the policy's repeal, Jack Lienke noted that the executive order is not legally enforceable.

But in light of a 2015 Supreme Court decision saying agencies had to incorporate cost considerations into their rulemakings, EPA's move could be vulnerable on the grounds that the agency ignored the possible costs associated with the health damage accompanying higher levels of toxic emissions, said Lienke, the institute's regulatory policy director.

At least in the proposed rule, Lienke said, EPA failed both to estimate the "total emissions impact" and to "discuss who would be harmed by those emissions."

A challenge on those grounds, he added, "could have a strong chance of success."

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Clean Water Act: Secret tapes reveal Pebble's plans to offset wetlands damage

(Greenwire, 10/1/2020) Ariel Wittenberg, E&E News reporter

The fate of what could be the nation's largest gold and copper mine — and Alaska's premier salmon fishery — may depend on whether the Army Corps of Engineers believes in a mining company's ability to reengineer nature.

After the corps told the backers of the proposed Pebble mine that they couldn't proceed with their proposed mine plan, the massive extraction project has been busy drawing up a new proposal to offset the thousands of acres of wetlands and nearly 9 miles of streams the mine would destroy in the headwaters of Bristol Bay.

That includes an untested idea to create more salmon habitat by wetting currently dry streams. But salmon ecologists say the plan would do nothing to compensate for the mine's destruction.

"Are you joking?" asked University of Washington salmon ecologist Thomas Quinn when E&E News questioned him about the idea.

Pebble Partnership officials offered clues to their mitigation plans in secretly recorded conversations with environmentalists from the Environmental Investigation Agency pretending to be mine investors.

The videos were released last week.

The recordings feature then-Pebble CEO Tom Collier describing how the company would create more salmon habitat by capturing and holding rain and snowmelt during the spring in order to "flush" it down streams that are seasonally dry in July and August to attract salmon.

"At spawning time, we'll put that water through the water treatment plant and put it into three different streams to create spawning habitat," said Collier.

Collier resigned from his post shortly after the recordings were released.

"That just doesn't pass the sniff test," said Quinn, whose department at the University of Washington has run a field program in Bristol Bay since 1947, with 30 to 50 researchers living at three to five field camps in the bay every summer.

Figuring out how to mitigate for damages caused by Pebble has long been an obstacle for the mine's backers.

When EPA proposed blocking the mine in 2014, it considered whether removing beaver dams or bypassing waterfalls could create more salmon habitat, and it ultimately found there would be "significant challenges" to offsetting the mine's impacts, raising "questions as to whether sufficient compensation measures exist."

This spring, Pebble proposed upgrading three tribal sewage systems within Bristol Bay to compensate for wetlands destroyed by the project — a plan that was eschewed by the Army Corps' Alaska District in August.

Asked for more details about the company's mitigation plans, Pebble spokesman Mike Heatwole did not supply them, saying, "We are working on the final details for our compensatory mitigation plan and are confident that our plan will meet [the Army Corps'] requirements."

But neither Quinn nor his colleague Ray Hilborn could think of any streams within Bristol Bay that fit Collier's seasonally dry description that Pebble could attempt to restore.

"I am unaware that there are any streams in Bristol Bay that go dry," Hilborn said. "None of the major areas go dry, and, frankly, I don't think

that Bristol Bay is limited by the amount of spawning area."

Even if there are streams that go dry in some months, Quinn said, that's not necessarily a bad thing.

Bristol Bay has long been considered the world's premier salmon fishery. The bay's juvenile salmon stay in headwaters and wetlands until they are old enough to go downstream. After a few years in the ocean, they return to spawn and die. The diversity of the watershed's streams and wetlands is important because fish that spawn in different areas of the estuary are genetically diverse.

Because there are so many types of habitat and fish, Quinn explained, the fishery as a whole can easily rebound. With streams fed by groundwater, glacial melt and rainwater, the system as a whole can rebound during a year with little rainfall, because streams fed by glaciers will remain for salmon. In colder years without much stream flow from glacial melt, streams fed by groundwater and rainwater can compensate.

"That's why, in the long haul, if you have lots of different species with lots of different traits and lots of different habitats, it works well," he said, adding that Bristol Bay's most productive areas have shifted through the decades.

Hilborn and Quinn disagreed about whether wetting dry streams would attract salmon. The fish typically spawn in the same areas where they were born, though Hilborn said there have been some cases where beaver dams have blown out and salmon have spawned farther upstream than they otherwise would be able to.

But Hilborn also noted that, if the Pebble mine were to have a catastrophic failure and release toxins into the entire Bristol Bay system, it would affect the watershed's major rivers, which are home to 10 million fish.

Even if it were possible to add three streams of habitat, it wouldn't help enough salmon, he said. "A few thousand fish here or there, it's just insignificant compared to what's at risk."

Quinn agreed and said he thinks the backers of the Pebble mine could do well to learn from the Columbia River watershed, where restoration

efforts have spent hundreds of thousands of dollars to try to re-create salmon habitat lost to development decades ago.

"That sort of techno fix, that 'we can do nature better than it is,' has so clearly been unsuccessful in the past," he said. "It seems like people are just grasping at straws; they want to start this mine, and they are flailing around with one idea or another to make some more salmon, but none of that would ever mitigate for the loss."

Preservation vs. mitigation

Creating new stream habitat isn't the only way Pebble plans to offset the damage the mine would cause.

On the tapes, both Collier and Ronald Thiessen, president of Pebble's parent company, Northern Dynasty Minerals Ltd., say they will partner with the state of Alaska to compensate for the more than 2,000 acres of wetlands the mine would destroy.

The mine company is working with the state to put state lands into a conservation easement where extraction activities will not be allowed, "similar to a park" that would be "available for hunting and fishing," Collier said, adding that the Department of Natural Resources was "being very cooperative in working through this with us."

Allowed under federal wetlands regulations, the idea of preserving large swaths of wetlands to compensate for those lost to development has long been a thorny one in Alaska, where so much land is already conserved by the state and federal governments.

In the past, the Army Corps' Alaska District eschewed preservation in favor of no mitigation at all. But after E&E News uncovered a strikingly low amount of mitigation being required by the Alaska District, EPA and Army Corps Headquarters signed a memo seeking to promote preservation as mitigation in Alaska.

However, the memo specifically says lands that are "already provided a high level of protection" as part of state or national parks "would not be eligible" to be preserved as mitigation because doing so would not fulfill federal requirements that "resources being considered for preservation

must be under threat of destruction or adverse modifications."

The memo also says that when preservation is used to offset wetlands destruction, the area preserved must be larger than the area destroyed.

In order to comply, the area of state-owned land that Pebble seeks to protect would have to be larger than 3,000 acres, with active threats — such as soon-to-be-developed mineral claims. Removing more than 640 acres of state land from oil or mining development would require approval of the Legislature.

While Collier bragged about his influence over the Legislature on the Pebble tapes, this week, Alaska House Speaker Bryce Edgmon (I) and Rep. Louise Stutes (R), who chairs the House Fisheries Committee, asked Alaska Gov. Mike Dunleavy (R) "to not stand by [Pebble] in deed or word if it seeks to use State land in any way to respond to the Corps' compensatory mitigation requirements."

"There's going to be a lot of i's to dot and a lot of t's to cross," said Brian Litmans, legal director at Trustees for Alaska.

Litmans said it's hard to imagine how Pebble would prove that land it wants to preserve is under threat. Either it would have to buy out other companies' mining claims, or it would have to offer not to mine some of its own claims.

"But if these are claims the company has said it has no intent of mining, how is the area under threat?" he asked.

What's more, the Alaska District of the Army Corps has previously held very strict standards for when wetlands are allowed to be preserved for mitigation — saying such lands must be devoid of human activity in order to count.

In 2018, the Alaska District ended cooperation with the state's only private wetland mitigation provider in the Bristol Bay region, in part because it claimed that private inholdings within national parks the Conservation Fund planned to preserve would not be protected enough from human activity.

The use of all-terrain vehicles for subsistence fishing and hunting — allowed by the National Park Service — would be unacceptable on lands

preserved as compensatory mitigation under the Clean Water Act, the Alaska District said.

The district held firm to those strict requirements, over the objections of federal and state employees on a committee to review mitigation decisions, and ultimately killed the Conservation Fund's program.

Gail Terzi, a former consultant for the Conservation Fund who previously managed the mitigation program for the Army Corps' Seattle District, said she's not sure whether Pebble's preservation plan would meet the same standards if it is planning to allow hunting and fishing on its preserved parcel.

"That's exactly what would probably be going on with whatever land they get from the state — they would probably still allow fishing and hunting and snowmobiling," she said.

Litmans also questioned whether preserving even wide swaths of wetlands would be enough to remove the Army Corps' finding that the Pebble mine could contribute to "significant degradation" of the Bristol Bay watershed.

The habitat that would be destroyed by the mine, he said, is of high quality. And while preserving wetlands is technically allowed under the regulation, he noted that it would not be bringing back any new salmon habitat.

"Preservation just holds the land, so if you think in simple math terms, I am left with a lot of questions," he said. "I view the calculation of mitigation as a balance sheet, so we are saying, 'They are currently in the red for habitat; how do we get back into the black?' I'm hard pressed to see how you can say, 'This project causes significant degradation, but preservation would somehow get them out of it.'"

Dennis McLerran, who led EPA's Region 10 during the Obama administration, agreed that preservation wouldn't necessarily help Pebble avoid "significant degradation" of Bristol Bay.

"I think there is a good lawsuit there as to whether preservation would truly mitigate," he said. "People are not going to believe that sort of mitigation plan is effective in this specific watershed, and I'm sure there will be a lot of scientists lined up in a litigation to talk about why that would not be the case."

Clean Air Act: EPA set to finalize toxic emissions rollback

(Greenwire, 9/22/2020) Sean Reilly, E&E News reporter

EPA is poised to cinch repeal of a Clinton-era air toxics policy affecting thousands of industrial facilities.

The White House Office of Information and Regulatory Affairs ended its review of the final version yesterday, according to a government tracking website. EPA press staffers did not respond to an email this morning asking about the schedule for public release of the completed rule.

As proposed last year, the rule would formally scrap the 1995 "once in, always in" framework intended to curb releases of hazardous pollutants like mercury, arsenic and benzene. Under that policy, factories, refineries and other plants had to abide by "maximum achievable" pollution control technology standards even if their emissions later fell below the thresholds that originally triggered those standards.

The Trump administration, Republican lawmakers and industry groups argued that the policy acted as a disincentive for businesses to cut their emissions; environmental groups countered that there would be more toxic pollution as industries were allowed to resort to laxer controls.

In an analysis of the proposed rule also released last year, EPA acknowledged the possibility of more emissions but predicted that individual regulators would step in to keep that from happening.

The Clinton-era EPA had instituted the 1995 policy through a memo. The Trump administration's initial decision to rescind it in early 2018 was also accomplished through a memo by then-air chief Bill Wehrum. Assuming that the final rule follows the lines of last year's draft, it would now lock in that rollback.

The 1995 policy had applied to plants initially classified as "major" pollution sources because they had the potential to annually emit at least

10 tons of a single hazardous pollutant or 25 tons of any combination of such air toxics. In what EPA then described as a check on backsliding, the requirement to maintain "maximum achievable control technology" (MACT) standards applied even if their emissions later fell below those thresholds.

Out of about 7,900 facilities deemed major sources of hazardous air pollution, EPA last year estimated that almost half could be reclassified as "area" sources subject to less rigorous standards. Under the agency's preferred forecasting scenario, the net savings for industry would total almost \$169 million in the first year alone.

In making the rule final, the Trump administration would round out an endeavor that began in 2007 when George W. Bush was president and Wehrum was acting air chief during an earlier tour at EPA. While the agency had then sought to rescind the "once in" policy through a formal rulemaking, work on that proposal was not completed after Wehrum abruptly left the agency that same year. The draft rule, however, was never withdrawn.

Wehrum then returned to a private law practice where his clients included some of the industry organizations that back repeal of the "once in" policy. Following his return to EPA's air office in late 2017, Wehrum ended his second stint at the agency in June of last year with a similarly sudden resignation. After keeping a low profile, he publicly resurfaced this month as an attorney representing oil, refining and chemical industry trade groups in a legal challenge to a recently completed update to a separate EPA air toxics rule.

Formal repeal of the "once in" policy is likely to rekindle litigation from environmental groups and the state of California.

In a split ruling last summer, a three-judge panel on the U.S. Court of Appeals for the District of

Columbia Circuit threw out their challenge to Wehrum's 2018 decision on the grounds that the memo did not amount to a final agency action subject to judicial review.

The plaintiffs' petition for a rehearing was later denied.

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NEPA: Trump administration's Point Reyes plan sparks protests

(Greenwire, 9/30/2020) Jeremy P. Jacobs, E&E News reporter

The Trump administration is forging ahead with a plan for Point Reyes National Seashore near San Francisco that has sparked outrage among some greens and, amid reports of elk deaths, led to protests.

At issue is the National Park Service's new management plan for the seashore — long considered a gem of the park system. It would allow historic cattle and dairy ranching operations to continue within the park, which some conservationists say threatens herds of tule elk that were brought to the park to recover the species.

Jeff Miller of the Center for Biological Diversity called the plan a "disaster."

"The Park Service is greenlighting the slaughter of native wildlife in Point Reyes," he said in a statement. "After the elk, the next likely victims will be birds, bobcats, foxes and coyotes. This plan is illegal and immoral, and we're going to do everything we can to stop it."

Park officials, however, said that the plan "succeeds in protecting both natural and cultural resources."

"It preserves multigenerational ranching in the park and provides the tools to maintain a viable free-ranging tule elk population in the planning area," acting Superintendent Carey Feierabend said in an emailed statement.

The controversy surrounding the dairy and ranching operations has swirled for years around the park and the liberal area north of San Francisco where it lies.

Existing ranching operations signed long-term leases with the government in the 1960s, leading

to the park's establishment in 1962. The service carved out about a quarter of the park as a "pastoral zone" for the cattle to graze.

Problems began in 1978, when the service reintroduced tule elk to the seashore to try to save the species from extinction.

It worked; the elk rapidly recovered.

But it became apparent that the park service lacked a clear plan for how to manage them.

One herd ended up fenced in on the Tomales Point peninsula on the northern end of the park. Another was allowed to roam freely, where it ran into conflicts with the grazing cows.

There are now about 730 elk in the park, spread over multiple herds.

Earlier this month, the service released a "general management plan amendment" and environmental impact statement for the park. After considering six options, it chose an alternative that allows about 15 ranching and dairy farms to continue their operations under 20-year leases.

The service has cast the alternative as a balanced plan to manage wildlife resources, including the elk. It has also pointed out that Congress in early 2019 passed legislation that supported continued ranching operations as "fully consistent" with its intent for the seashore. That came after a lobbying push by the ranches.

Notably, the ranches have significant support among prominent Democrats in Congress, some local environmental groups and the area's prominent farm-to-table restaurant scene, which uses their products.

The problems regarding the park's elk management have continued, however.

Wildfires have threatened the park this year, and some conservationists have again sounded the alarm about deteriorating water conditions for the Tomales Point herd that have historically relied on former ranching stock ponds for water. They say those have dried up and conditions are reminiscent of the 2012-14 drought that led to about 250 elk dying.

Some have pointed to photographs that appear to show 15 elk deaths this year.

Dozens of protesters showed up at the 8-foot fence separating the elk earlier this month, and there have been reports of activists trying to deliver water to the elk.

The service has refuted those claims, saying it is monitoring the elk's water resources and that they have an adequate supply.

"There are a number of seeps and springs in the area that are frequented by the elk," the service said on its website. "Our current field

observations confirm that water is still available in herd locations" and that elk are drinking from those sources.

Miller of the Center for Biological Diversity has been one of the park's fiercest critics. His group, along with the Resource Renewal Institute and Western Watersheds Project, sued the service in 2016, eventually reaching a settlement that spurred the new management plan.

He claims that the plan adopted by the service authorizes excessive levels of cattle grazing while only providing vague and aspirational wildlife management policies.

Referring to the recent reports of elk deaths, Laura Cunningham of the Western Watershed Project said, "Something's not right here."

"It's clear that the Park Service believes that Nature should just run its course on the Park," Cunningham said in a statement. "But Nature didn't put up an insurmountable barrier for the sake of livestock profits, and the agency can't ignore that it has created this situation by prioritizing agriculture over wildlife."

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The final version also removed a reference to an expected assessment of the potential effect on endangered species, saying that type of examination would come only when specific projects are proposed.

"Since there are no anticipated effects that would influence threatened or endangered species, preparing a Biological Assessment is not necessary," the agency said. "Biological Assessments may be prepared for site-specific actions proposed in the future, as appropriate."

Alaska officials and the Trump administration say that the roadless rule stymies potential economic development in timber and other natural resources, and that the great majority of the Tongass isn't open to, or suitable for, logging and won't be affected. The president has himself been involved and was widely reported to have pressed Perdue for a full exemption after a conversation with Alaska Gov. Mike Dunleavy, a Republican, last year.

A timber industry representative called the move a positive step.

"The Administration's actions today are a first step towards correcting top-down decisions which set aside over 85 percent of the forest from active use," said Bill Imbergamo, executive director of the Federal Forest Resource Coalition.

"The Forest already has almost 6.5 million acres of wilderness and national monuments, and nothing in the exemption changes that," Imbergamo said. "Application of the 2001 Roadless Rule to the Tongass was never appropriate, and we look forward to seeing a return to rational management of portions of this forest."

Proponents of lifting the rule, such as the Resource Development Council for Alaska, pin much of the timber industry's decline in southeast Alaska on the restrictions.

"The one-size-fits-all rule has caused extensive damage to the economic and social fabric of Southeast Alaska communities and has decimated the forest products industry," the development council told Perdue in a letter. Others pressing for an exemption include the Alaska Forest Association, representing timber interests, as well as the Alaska congressional delegation.

Environmental groups today criticized USDA's moves and predicted a legal challenge if the department follows through, although they acknowledged that undoing the regulation could prove an uphill fight.

"We will sue when the rule is finalized, as sure as the sun rises in the east," said Randi Spivak, public lands director for the Center for Biological Diversity. A court challenge could, at a minimum, delay the administration's move.

'Bad for people'

Aside from legal challenges, supporters of the roadless rule are watching for any intervention by Congress or administrative moves should Democrats win the presidency in November, said Patrick Lavin, Alaska policy adviser for Defenders of Wildlife.

And while Perdue can make a final decision in 30 days, a delay isn't out of the question, Lavin added.

Other opponents of lifting the roadless rule said expanded logging would sacrifice southeast Alaska's growing recreation and tourism industries for the benefit of a shrinking old-growth timber industry. According to the Forest Service, half of southeast Alaska's medium-size to large sawmills closed between 2000 and 2017, and the number of jobs tied to Tongass timber tumbled from 125 in 2002 to 61 in 2017.

"This is bad for people, bad for a sustainable economy and bad for wildlife," said Andy Moderow, Alaska director for the Alaska Wilderness League. "Put simply, we should stop spending our taxpayer dollars to destroy public lands and all they provide for us in the Tongass National Forest."

The 16.7-million-acre forest, the biggest U.S. national forest, is one of the last remaining intact temperate rainforests on Earth. Scientists and

environmental groups point to its role in sequestering carbon and thus potentially slowing the effects of climate change. The forest stretches about 500 miles north to south and 120 miles across.

In the environmental statement, USDA said the roadless rule isn't necessary to protect the Tongass.

"The USDA and Forest Service believe the 2001 Roadless Rule prohibitions on timber harvest and road construction/reconstruction can be adjusted for the Tongass in a manner that meaningfully addresses local economic and development concerns and roadless area conservation needs," the department said.

Lifting the roadless rule won't quickly lead to any logging projects, which the agency said would still need to go through the environmental reviews and public comment periods required of such work. And the final EIS reiterated earlier Forest Service assertions that timber harvest volumes won't change from the long-term Tongass forest plan that's been in place since 2016.

Instead, the agency said, lifting the restrictions would open areas that have been unavailable, giving the Forest Service more flexibility to find cost-effective timber supplies. Some 168,000 acres of never-logged forest that were deemed unsuitable for harvest under the roadless rule would be deemed suitable, as well as 20,000 acres of young growth, the agency said.

The watchdog group Taxpayers for Common Sense estimates the Forest Service loses millions of dollars a year on Tongass timber sales, although timber industry sources say that's partly due to the legal challenges frequently filed by environmental groups.

While the administration's move tilts toward old-growth harvests at the outset, it adheres to Forest Service plans to gradually transition to young-growth areas that were logged decades ago. Old-growth harvest will outpace young growth for the first decade, the Forest Service said.

Other development

In pressing against the roadless rule, Alaska officials have said the move isn't strictly about timber. Easing the restrictions could help

development of hydroelectric power, mining or other industries, supporters say. The Alaska Miners Association asked Perdue in a March 2019 letter to exempt the Tongass.

But mining would see little effect, the Forest Service said, although it said geothermal projects could be allowed.

"The Tongass has no recent or current leasable mineral activity and the demand for leasable

minerals is expected to remain low," the agency said in the EIS. "As a result, changes in designated roadless management are expected to have limited impacts on mineral development."

The Final EIS, Rulemaking for Alaska Roadless Areas, may be viewed at <https://www.fs.usda.gov/project/?project=54511>.

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