No. 15-467

In The
Supreme Court of the United States

STATE OF ALASKA,

Petitioner,

v.

ORGANIZED VILLAGE OF KAKE, et al.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

BRIEF OF *AMICI CURIAE* ALASKA FOREST ASSOCIATION, SOUTHEAST CONFERENCE, SOUTHEAST ALASKA POWER AGENCY, AMERICAN FOREST RESOURCE COUNCIL, FEDERAL FOREST RESOURCE COALITION, INC., PUBLIC LANDS COUNCIL, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, ASSOCIATED OREGON LOGGERS, INC., DOUGLAS TIMBER OPERATORS, ASSOCIATED LOGGING CONTRACTORS, INC., WASHINGTON CONTRACT LOGGERS ASSOCIATION, INC., AND INTERMOUNTAIN FOREST ASSOCIATION, INC., IN SUPPORT OF PETITIONER

MICHAEL E. HAGLUND
Counsel of Record
JULIE A. WEIS
HAGLUND KELLEY LLP
200 SW Market St.
Ste. 1777
Portland, OR 97201
(503) 225-0777
mhaglund@hk-law.com

SCOTT W. HORNGREN
CAROLINE M. LOBDELL
WESTERN RESOURCES LEGAL CENTER
5100 SW Macadam
Ste. 350
Portland, OR 97239
(503) 222-0628

Attorneys for Amici Curiae

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INTERESTS OF *AMICI CURIAE*[1]

Amici Curiae represent companies and families that depend, in part, on public lands, particularly federal forests, for their livelihoods.

The Alaska Forest Association (AFA) is an Alaska nonprofit corporation that is one of the oldest trade associations in the State of Alaska. The AFA represents more than 100 members sharing an interest in the timber industry and public lands of Alaska, including Tongass National Forest (Tongass, or the Forest) lands. The mission of the AFA is to advance the restoration, promotion, and maintenance of a healthy and viable forest products industry that contributes to the economic and ecological health in Alaska's forests and communities. The AFA thus is committed to ensuring a reliable and sustainable supply of forest products from Alaska's national forests, particularly the nearly 17 million acre Tongass, the nation's largest National Forest.

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[1] The parties were given at least ten days notice of *amici*'s intention to file a brief, and all have consented to this filing. Petitioner has filed a letter of blanket consent to the filing of *amicus* briefs, which is lodged with the Clerk. All Respondents have consented to the filing of this brief, and *amici* have filed Respondents' letters of consent, which are lodged with the Clerk. Pursuant to this Court's Rule 37.6, the *amici* submitting this brief and their counsel hereby represent that no party to this case nor their counsel authored this brief in whole or in part, and that no person other than *amici* paid for or made a monetary contribution toward the preparation and submission of this brief.

Management of public lands on the Tongass ultimately will dictate not only the health of the Forest's renewable natural resources but also the viability of AFA members' businesses and the economic and social health of their local communities. The AFA participated in the district court proceedings as a defendant-intervenor and supported the State of Alaska in the Ninth Circuit proceedings as an *amicus curiae*. The AFA did so because it has a direct stake in the federal rule at issue, the so-called Tongass Exemption which exempted the Tongass from application of the Roadless Rule. *See generally* 68 Fed. Reg. 75,136 (Dec. 20, 2003) (Tongass Exemption); 66 Fed. Reg. 3,244 (Jan. 12, 2001) (Roadless Rule). Even with the Tongass Exemption in place, the Forest remains largely off limits to timber harvest – only about 4% of the Tongass is available for timber harvest under the current forest plan, with only about half of that acreage comprising roadless areas available for harvest over the current planning cycle. Without the Tongass Exemption, the Roadless Rule strips away multiple use management options on that 2% of the Forest, unnecessarily harming the AFA and its members due to resource supply constraints. The AFA believes that elections *do* have consequences, for good or for ill, and that an incoming administration should be free to change the land management policies of a prior administration in conformance with Supreme Court teachings.

The Southeast Conference, an Alaska nonprofit corporation that agrees with the AFA that elections

rightly have consequences, represents a large and diverse group of communities and businesses located throughout Southeast Alaska. Southeast Conference membership is comprised of more than 140 core memberships representing more than 1,000 individuals concerned about the future of Southeast Alaska and includes most of the communities located in close proximity to the Tongass. Broadly stated, the Southeast Conference's mission is to work to advance the collective interests of the people, communities and businesses throughout Southeast Alaska. The Southeast Conference has an obligation to take an active role in regional resource management and economic development planning and supports a robust timber sale program on the Tongass, which covers about 80% of the land area in Southeast Alaska.

The Southeast Alaska Power Agency (SEAPA) is an Alaska Joint Action Agency, which is a public corporation formed and existing under Alaska Statutes §§ 42.45.300-.320. SEAPA owns two hydroelectric projects in Southeast Alaska (Swan Lake and Tyee Lake Hydroelectric Facilities) and associated transmission facilities that provide economical, renewable, non-carbon-based electric power to SEAPA's three member public utilities. SEAPA has a vital interest in the management of the Tongass because application of the Roadless Rule to the Tongass adversely affects its ability to generate affordable renewable hydroelectric power in rural Southeast Alaska as an alternative to diesel and other fossil fuels. With rare exceptions, communities

in Southeast Alaska are not connected by road or to the North American electrical grid and rely on either renewable hydroelectric power or non-renewable and polluting diesel generation for their electricity needs.

The American Forest Resource Council (AFRC), an Oregon nonprofit corporation, is a regional trade association which represents the forest products industry throughout Oregon, Washington, Idaho, Montana, and California. AFRC's mission on behalf of its more than 50 forest product businesses and forest landowners is to advocate for sustained yield timber harvests on public timberlands throughout the West to enhance forest health and resistance to fire, insects, and disease. AFRC works to improve federal and state laws, regulations, policies and decisions regarding access to and management of public forest lands and protection of all forest lands. AFRC and its members have been actively involved in rulemaking and litigation over various Forest Service roadless rules and planning rules promulgated and re-promulgated over two decades and often modified from one administration to the next. Like the AFA, AFRC has an interest in ensuring that an incoming administration can change land management policy from that of its predecessor, particularly within the jurisdiction of the Ninth Circuit given the vast area of public lands in the western states.

The Federal Forest Resource Coalition, Inc. (FFRC) is a national coalition consisting of small and large companies and regional trade associations throughout the country whose members manufacture

wood products, paper, and renewable energy from federal timber resources. FFRC, a District of Columbia nonprofit corporation, wants to ensure timely and effective access to federal lands throughout the United States, including within the range of the Ninth Circuit, to sustainably produce timber and other forest products and to proactively manage such lands to protect them from insects, disease, and wildfire. FFRC is particularly concerned with agency interpretation of national legislation governing management of the national forests and that there not be insurmountable roadblocks to changing agency interpretations.

The Public Lands Council (PLC) is a Colorado nonprofit corporation that is headquartered in Washington, D.C. and represents ranchers who use public lands and preserve the natural resources and unique heritage of the West. The National Cattlemen's Beef Association (NCBA), also a Colorado nonprofit corporation, is the national trade association representing the entire cattle industry. PLC membership consists of state and national cattle, sheep, and grasslands associations whereas NCBA has as members nearly 139,000 cattle producers and 45 affiliated state associations throughout the United States. PLC and NCBA work to maintain a stable business environment for public land ranchers in the West where roughly half the land is federally owned and many operations have, for generations, depended on public lands for forage on federal grazing allotments. NCBA

and PLC have been actively involved in the promulgation of regulations that govern approval and amendment of grazing allotment management plans. The contours of how a new administration can change grazing management policy is critically important to PLC and NCBA.

Associated Oregon Loggers, Inc. (AOL) and Douglas Timber Operators (DTO) are Oregon nonprofit corporations representing Oregon forest landowners, businesses that harvest and haul timber, and mills that process the logs. The federal Oregon and California Railroad Revested lands (O&C lands) are a vital source of timber supply in western Oregon, and AOL and DTO have been actively involved over the years in the development of resource management plans for these lands and in related rulemakings and litigation involving the northern spotted owl and its critical habitat. In the early days of the Obama Administration, AOL and DTO saw the resource management plans governing the O&C lands abandoned. AOL and DTO believe it is important for incoming administrations to have the freedom to change existing land management policies but believe it also is important for the Court to clarify the circumstances under which a new administration can do so rather than leaving such determinations to non-elected members of the judiciary.

Associated Logging Contractors, Inc. (ALC) is an Idaho nonprofit corporation that has been representing the interests of Idaho logging businesses for almost 50 years. The Washington Contract Loggers

Association, Inc. (WCLA) is a Delaware corporation that has been serving the interests of individuals involved in the Pacific Northwest timber industry for more than 40 years. ALC and WCLA represent the majority of contract loggers in their respective states who work for timber companies that purchase state, private, and Forest Service timber sales. ALC and WCLA members also directly purchase timber sold by the Forest Service from the 25 million acres of national forests in Washington and Idaho. WCLA was lead plaintiff in an industry challenge to the Forest Service's Northwest Forest Plan, which imposed overly restrictive management requirements for the northern spotted owl to the detriment of WCLA members. ALC members are similarly affected by policies involving federally listed endangered species such as Snake River salmon, grizzly bear, and lynx on the national forests. Given that national forest renewable resources are critical to WCLA and ALC members, the associations have a vital interest in the manner in which an administration can change policies affecting management of the national forests.

The Intermountain Forest Association, Inc. (IFA), a Wyoming nonprofit corporation, works to create a positive climate for forest management as well as a stable and sustainable supply of timber from public and private forestlands for its members in Wyoming, Colorado, Montana, and South Dakota. IFA has been actively involved in the Forest Service forest planning process and federal decisions concerning management of Canada lynx in the southern Rocky Mountains.

These issues are contentious and involve policy decisions that rely on a given set of facts typically contained in an administrative record. IFA has an interest in permitting reasonable changes to resource management policies from one administration to the next.

SUMMARY OF THE ARGUMENT

This Court should grant the petition for certiorari. In the aftermath of a presidential election leading to a new administration, the policy preferences of executive agencies (likely under new leadership) regularly change. The ability to effect such change is at the heart of our nation's system of government. Policy change is promised and anticipated regardless of political affiliation, and its realization should have the opportunity to occur without unwarranted interference from the judicial branch.

Yet in this case, the majority of a divided en banc panel of the Ninth Circuit Court of Appeals wrongly invaded the realm of the executive branch under the guise that it was applying Supreme Court precedent when reviewing a new administration's policy change, namely the Tongass Exemption. The Tongass Exemption excluded the Tongass National Forest from application of the prior administration's Roadless Rule, which had placed off limits to timber harvest a full half of the already limited land base available for such purposes under the governing forest plan. Pet.

App. 183. Restoring access to that land base is vitally important to *amici* because even without the Roadless Rule in place, the vast majority of the Forest (96%) is unavailable for timber harvest. Pet. App. 166, 183.

In upholding the Tongass Exemption's invalidation, the Ninth Circuit majority wrongly substituted its preferred Tongass land management policy for that of the Department of Agriculture. The majority found that the G.W. Bush administration's Tongass Exemption rested on new factual findings that controverted those for the Clinton administration's Roadless Rule despite the fact that the two policy decisions rested on the very same administrative record. This runs afoul of Supreme Court precedent making clear that the facts in Administrative Procedure Act (APA) cases are those contained in the administrative record. A reviewing court may not find new facts underlying an administrative agency's decision; the administrative record comprises the world of facts on which the agency decision rests.

In reaching its holding, the Ninth Circuit majority applied its own rule of law in conflict with Supreme Court precedent. Absent further review by this Court, the Ninth Circuit's decision means that within the jurisdiction of the nation's largest Circuit Court of Appeals, a new administration's ability to effect meaningful policy change will be unduly constrained compared with that in the other circuits. This is of great concern to *amici* who depend on public lands for their livelihoods and who seek clarity on how public

land management policies may evolve with the advent of a new administration. And it is an issue of national importance given that more than 450 million of our nation's roughly 635 million acres of federally owned lands are within the Ninth Circuit's jurisdiction. *See Federal Land Ownership: Overview and Data*, Cong. Res. Serv. Rep. R42346 (Feb. 8, 2012), http://www.fas.org/sgp/crs/misc/R42346.pdf.

This Court is no stranger in the land of Ninth Circuit jurisprudence given the Circuit's predilection for veering from the path of Supreme Court teachings, including in environmental cases. Granting the writ of certiorari is once again warranted, particularly given the troubling separation of powers issues rightly emphasized by Petitioner the State of Alaska.

ARGUMENT

Certiorari should be granted in this public lands case because the majority decision of the divided en banc Ninth Circuit panel will curtail a new administration's ability to effect meaningful policy change within the geographic jurisdiction of the nation's largest Circuit Court of Appeals and in conflict with other circuits. This is of particular national significance because the vast majority of federally owned lands in the United States fall within the jurisdiction of the Ninth Circuit.

A. The Court Should Grant the Petition for Writ of Certiorari Because the Ninth Circuit Wrongly Substituted Its Preferred Tongass Land Management Policy for that of the Department of Agriculture Under the Guise that the Tongass Exemption Rested on New Factual Findings.

The Ninth Circuit majority wrongly invaded the realm of the executive branch when it substituted its preferred Tongass land management policy for that of the Department of Agriculture. The Ninth Circuit did so under the guise that the Tongass Exemption rested on new factual findings contradicting those for the Roadless Rule. In reality, the administrative record supporting the Roadless Rule was exactly the same administrative record that supported the Tongass Exemption. *See, e.g.*, Pet. App. 187-88. As a result, there were no additional factual findings. The Ninth Circuit thus purported to respect Supreme Court precedent while actually subverting it.

The Administrative Procedure Act (APA) requires a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions found to be – (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). This Court has emphasized that in reviewing agency action under the APA, "'a court is not to substitute its judgment for that of the agency,'" so much so that the reviewing court should "'uphold a decision of less than ideal clarity if the agency's path may reasonably be discerned. . . .'" *F.C.C. v. Fox*

Television Stations, Inc., 556 U.S. 502, 513-14 (2009) (quoting *Bowman Transp., Inc. v. Arkansas-Best Freight System, Inc.*, 419 U.S. 281, 286 (1974)).

Policy changes like the Tongass Exemption satisfy the APA if the agency shows awareness of its changed position along with showing "that the new policy is permissible under the statute, that there are good reasons for it, and that the agency *believes* it to be better, which the conscious change of course adequately indicates." *Fox*, 556 U.S. at 515 (emphasis in original). Only if the new policy "rests upon factual findings that contradict those which underlay its prior policy" must the agency provide a more detailed explanation for its policy change. *Id.*

This case illustrates the Ninth Circuit's propensity for substituting its preferred outcome in an environmental case while purporting to apply Supreme Court precedent. It is well settled law that in APA cases, the administrative record comprises the body of facts that is "the focal point for judicial review." *Camp v. Pitts*, 411 U.S. 138, 142 (1973). Absent limited exceptions not at issue, the administrative record supporting an agency's decision is not supplemented during the course of judicial review, and a court bases its review on the materials that were before the agency at the time of its decision. *Id.* Here, the administrative record supporting the Tongass Exemption was the very same administrative record supporting the Roadless Rule.

Despite the existence of a single administrative record shared by the Roadless Rule and the Tongass Exemption, the Ninth Circuit concluded that the Tongass Exemption did not rest on "simply rebalance[d] old facts." Pet. App. 25. Instead, the majority found the Tongass Exemption fatally flawed for relying on new factual findings that contradicted those for the Roadless Rule without an accompanying reasoned explanation for the apparent contradiction. Pet. App. 25-27. In particular, the Ninth Circuit concluded that the Tongass Exemption was founded "on the express finding that the Tongass Forest Plan poses only 'minor' risks to roadless values," whereas the Roadless Rule found the same forest plan "unacceptable because it posed a high risk to the 'extraordinary ecological values of the Tongass.'" Pet. App. 26.

Amici agree with Petitioner that the Tongass Exemption and Roadless Rule simply reflect differing value judgments made by two different administrations based on a unitary set of facts, i.e., those contained in a shared administrative record. *See also* Pet. App. 57 ("[T]he two administrations looked at some of the same facts, and reached different conclusions about the meaning of what they saw.") (Smith, J., dissenting, joined by four other judges in dissent). In declining to defer to the G.W. Bush administration's policy decision to exempt the Tongass from the Roadless Rule, the Ninth Circuit majority held that the agency's decision rested on new "factual findings," Pet. App. 25, presumably beyond those found in the

original administrative record, even though the record never was supplemented. Try as it might, the Ninth Circuit cannot find new facts or impose its preferred policy choice for the Tongass without running afoul of Supreme Court precedent governing judicial review in APA cases.

B. Certiorari is Warranted Because a New Administration's Ability to Change the Executive Branch Policies of a Prior Administration Without Undue Judicial Interference is Intrinsic to Our Nation's System of Government.

As the dissent observed, "[e]lections have legal consequences." Pet. App. 52. When a new administration takes office, particularly an administration of a different political affiliation, it likely will have a different outlook on how executive agencies should comport themselves in certain policy arenas. There is nothing novel or sinister about this. A notable example of an agency permissibly reversing course in the aftermath of an administration change is at the heart of this Court's seminal APA decision, *Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837 (1984).

At issue in *Chevron* were Clean Air Act regulations promulgated in 1981. The regulations allowed so-called nonattainment states "to treat all of the pollution-emitting devices within the same industrial grouping as though they were encased within a single 'bubble,'" i.e., a "plantwide definition of the term statutory source." *Id.* at 840. The prior year the

Environmental Protection Agency (EPA) had taken a different stance by promulgating regulations that did not allow for a plantwide approach in nonattainment areas. *Id.* at 857. The agency about-face occurred after "a new administration took office," *id.*, in response to which EPA "reevaluated the various arguments that had been advanced" in support of (or in opposition to) the plantwide definition and changed its policy. *Id.* at 858 (quoting explanation in the Federal Register that EPA's change of course "involved an agency 'judgment as how to best carry out the Act'").

That is what happened here. The Roadless Rule issued in January 2001 during the final days of the Clinton administration. Its effective date, originally slated for March 13, 2001, 66 Fed. Reg. at 3,244, was immediately delayed for 60 days as the G.W. Bush administration moved into the executive office. 66 Fed. Reg. 7,702 (Jan. 20, 2001) (memorandum to all executive agencies instructing that the effective date of any regulation that had been published in the Federal Register but not yet gone into effect be "temporarily postpone[d] . . . for 60 days"); 66 Fed. Reg. 8,899 (Feb. 5, 2001) (response of Agriculture Secretary Veneman delaying the effective date of the Roadless Rule to May 12, 2001). This practice of reexamining the executive agency policies of a prior administration transcends political affiliation. *See, e.g., Kennecott Utah Copper Corp. v. U.S. DOI*, 88 F.3d 1191, 1200-01 (D.C. Cir. 1996) (discussing the Clinton administration's immediate withdrawal of

certain Natural Resource Damage Assessment regulations received for publication in the Office of the Federal Register on January 19, 1993, the last day of the G.H.W. Bush administration).

Similar to *Chevron*, agency judgment regarding how best to implement multiple statutes on the Tongass was the foundation of the Tongass Exemption. *See, e.g.*, Pet. App. 192 (stating in the Federal Register that the Tongass Exemption embodied the Department of Agriculture's "assessment of how to best implement the letter and spirit of congressional direction along with public values, in light of the abundance of roadless values on the Tongass, the protection of roadless values already included in the Tongass Forest Plan, and the socioeconomic costs to local communities").[2] The G.W. Bush administration

[2] With its 1980 passage of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. § 3101 et seq., Congress set aside 5.5 million acres of the Tongass as wilderness and "found that this act provided sufficient protection for the national interest in the scenic, natural, cultural, and environmental values on the public lands in Alaska. . . ." Pet. App. 190. *See also* 16 U.S.C. § 3213(a) (expressly prohibiting "future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska" absent congressional approval). Ten years later, with the passage of the Tongass Timber Reform Act (TTRA), 16 U.S.C. § 539d, Congress instructed the Department of Agriculture to seek to meet market demand for timber on the Tongass. Pet. App. 191. Despite the clear language of the ANILCA prohibition on executive branch action, coupled with the unique TTRA direction to seek to meet timber demand on the Tongass, the Department of Agriculture under the direction of the Clinton

(Continued on following page)

took office, reweighed the socioeconomic harms flowing from application of the Roadless Rule on the Tongass, and decided to implement a different policy for the Tongass than that of its predecessor administration. The Tongass Exemption rests on this change in policy and not on new factual findings, as exemplified by the agency relying on the Roadless Rule administrative record to promulgate the Tongass Exemption.

C. The Court Should Grant Certiorari Because In Wrongly Substituting Its Preferred Tongass Land Management Policy for that of the Department of Agriculture, the Ninth Circuit Continues Its Tradition of Ignoring Supreme Court Teachings.

The Ninth Circuit has a long history of unreasonably substituting its own judgment for that of administrative agencies in contravention of Supreme Court precedent and otherwise paying insufficient heed to Supreme Court teachings. Not only does the Ninth Circuit have one of the highest reversal ratings amongst the circuits, it regularly has been the subject of unanimous and summary reversals. Diarmuid F. O'Scannlain, *A Decade of Reversal: The Ninth Circuit's*

administration applied the Roadless Rule prohibitions to the more than 9 million acres of inventoried roadless areas on the Tongass. *See* Pet. App. 166. It is no wonder the G.W. Bush administration revisited that policy choice.

Record In The Supreme Court Since October Term 2000, 14 LEWIS & CLARK L. REV. 1557 (2010).

Between its October 2000 and October 2009 terms, this Court agreed to hear 182 cases from the Ninth Circuit and reversed or vacated 148 of those decisions. *Id.* at 1558. This means that 81% of the time, the Ninth Circuit got it wrong. In comparison, the other circuits had a combined reversal rate of 71%. *Id.* Even more indicative of the Ninth Circuit's unrestrained judicial philosophy, 72 of the 148 reversals were by *unanimous decision*. *Id.* Thus, the Ninth Circuit managed to get the Supreme Court to speak with one voice 72 times regarding the Circuit's error during a time when 5-4 Supreme Court decisions were not uncommon. *Five-to-Four Cases*, SCOTUSblog (June 28, 2011), http://sblog.s3.amazonaws.com/wp-content/uploads/2011/06/SB_five-to-four_OT10_final.pdf. This high number is, in Judge O'Scannlain's estimation, a product perhaps of insufficient respect for the proper bounds of judicial review. 14 LEWIS & CLARK L. REV. at 1560-61. And the pattern appears to continue given an 86% reversal rate in 2012. Hope Babcock, *How The Supreme Court Uses The Certiorari Process In The Ninth Circuit To Further Its Pro-Business Agenda: A Strange Pas De Deux With An Unfortunate CODA*, 41 ECOLOGY L.Q. 653, 659 (2014).

Environmental cases are no exception to the Ninth Circuit's pattern of judicial review. Between 1998 and 2012, the Supreme Court agreed to hear 20 environmental cases from the Ninth Circuit, ultimately reversing 16 of those decisions. *Id.* at 659-60.

Thus, not only does the Ninth Circuit have a history of paying insufficient heed to Supreme Court teachings, it has a distinct history of doing so – and being reversed – in environmental cases like this one involving the Tongass Exemption. Moreover, as Petitioner rightly has emphasized, the Ninth Circuit's conduct in this environmental case presents a troubling separation of powers issue which further supports Supreme Court scrutiny.

Judge Christen's concurrence notwithstanding, Pet. App. 33, the Ninth Circuit's approach in this case to thwarting the G.W. Bush administration's change in policy for the Tongass causes reasonable minds to wonder whether elections can have their desired legal consequences within the range of our nation's largest Circuit Court of Appeals. This is an issue of national importance given that more than 450 million of our nation's roughly 635 million acres of federally owned lands fall within the jurisdiction of the Ninth Circuit. *See Federal Land Ownership: Overview and Data*, Cong. Res. Serv. Rep. R42346 (Feb. 8, 2012), http://www.fas.org/sgp/crs/misc/R42346.pdf. The majority's determination was requisite to the Ninth Circuit's ultimate holding that the Tongass Exemption lacked a sufficiently "reasoned explanation for disregarding previous factual findings" purportedly in violation of *Fox*, Pet. App. 27, again even though the administrative record supporting the Roadless Rule was identical to that supporting the Tongass Exemption. In so holding, the Ninth Circuit entered the realm of the executive branch to substitute its preferred policy for

Tongass land management under the guise of applying Supreme Court precedent, consistent with prior conduct deemed worthy of review and reversal.

CONCLUSION

Amici respectfully urge the Court to grant the State of Alaska's petition for writ of certiorari to review and reverse the Ninth Circuit majority's decision involving an incoming administration's change in policy regarding management of the Tongass National Forest in Southeast Alaska. In the aftermath of a presidential election, an incoming administration should enjoy the freedom to change land management policies of a prior administration in conformance with Supreme Court precedent and without undue judicial interference. This is a fundamental tenet of our system of government, even within the jurisdiction of the Ninth Circuit Court of Appeals.

Respectfully submitted,

MICHAEL E. HAGLUND
Counsel of Record
JULIE A. WEIS
HAGLUND KELLEY LLP
200 SW Market St.
Ste. 1777
Portland, OR 97201
(503) 225-0777
mhaglund@hk-law.com

SCOTT W. HORNGREN
CAROLINE M. LOBDELL
WESTERN RESOURCES LEGAL CENTER
5100 SW Macadam
Ste. 350
Portland, OR 97239
(503) 222-0628

Attorneys for Amici Curiae

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