

ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division

ERIKA NORMAN (CA BAR NO. 268425)
Senior Trial Attorney
Natural Resources Section
150 M St., NE
Washington, DC 20002
Tel: (202) 305-0475
Erika.Norman@usdoj.gov

Counsel for Defendants

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

KATHERINE B. MILLER,

Plaintiff,

v.

U.S. FOREST SERVICE and FRANCIS
SHERMAN, Forest Supervisor, Tongass,

Defendants.

Case No. 1:24-cv-00013-SLG

**DECLARATION OF MONIQUE NELSON IN SUPPORT OF DEFENDANTS’
SUPPLEMENTAL BRIEF ON REMEDY**

I, Monique Nelson, declare as follows:

1. I am the Forest Supervisor for the Tongass National Forest (“Tongass”). I have worked for the USDA Forest Service for over 15 years, and have been in my current position since April 2025. Before that, I was the Director of Ecosystem Planning and Information Management for the Alaska Region (Region 10) of the Forest Service.

2. In my capacity as Forest Supervisor for the Tongass, I am responsible for carrying out the Tongass's statutory requirement to provide for the multiple use and sustained yield of renewable forest resources, including administering the Tongass for outdoor recreation among other purposes. Along with the district ranger, I am also responsible for managing the Mendenhall Glacier Recreation Area ("MGRA") as a special area reserved for the purposes of winter sports and scenic recreation.

3. In my prior position as Regional Director of Ecosystem Planning and Information, I was involved in the environmental analysis and public process for the Mendenhall Glacier Facility Improvements Project, and was the point of contact for inquiries regarding the project.

4. In cooperation with the Tongass staff, I am responsible for implementing the Mendenhall Glacier Facility Improvements Project. And as Forest Supervisor, I would be responsible for directing and reviewing additional analysis and signing any future decision following a judicial remand to the Forest Service.

5. The goal of the Mendenhall Glacier Facility Improvements Project is to improve the experience of all users – including local users, independent travelers, and cruise ship passengers – visiting the MGRA. The project seeks to accomplish this by improving facilities to accommodate existing and projected future visitor numbers, and by better regulating visitation to the MGRA.

Mendenhall Glacier Facility Improvements Project - Overview

6. The Mendenhall Glacier Facility Improvements Project includes facility improvements to the historic Visitor Center, as well as reconfigured parking lots, a new

interpretive visitor plaza (Lakeshore Plaza), and new sidewalks, trails, viewing areas, and footbridges in the Visitor Center area of the MGRA. It also includes improvements, such as construction of new trailheads, to the Lakeshore, Nugget Falls, Steep Creek, and West Glacier Spur trails, as well as the Dredge Lakes and West Glacier multi-use trails. The project includes construction of public use cabins, and habitat restoration at Steep Creek. Finally, the project includes installation of culverts and required drainage structures, grading, removal of outdated infrastructure and materials, and vegetation management to preserve the views, revegetate following construction, and conduct other maintenance of the facilities and trails.

7. The project is intended to benefit all users of the MGRA, including local and non-commercial visitors. It will ease vehicular and foot traffic congestion in busy areas throughout the year, reduce undesirable human-wildlife interaction, address deferred trail maintenance and improve trails, and restore fish habitat.

8. There are several components of the project that are mainly intended to benefit local users and non-commercial visitors. Infrastructure improvements such as increased parking on the West and East Glacier sides will be a significant benefit to local users of Mendenhall Lake and the Mendenhall campground in the winter months. Besides the improved parking and circulation at the main Visitor Center lot, the new Skater's Cabin parking area on the West side will have 46 additional parking spaces for a total of 60 spaces, and three new parking areas along the Glacier Spur Road on the East side will have 52 new parking spaces. Currently, parking is often difficult due to snow and limited parking space, as local visitors seek to ski or hike on the frozen lake, ski in the

campground, and make use of warming locations such as Skater's cabin and the Visitor Center. Cars commonly line the two-lane road on the West Glacier side, preventing safe two-way traffic to and beyond the adjacent neighborhood.





Cars of local residents line the Skater's Cabin Road from neighborhood entry to the last parking area on a snowy day in February 2023. Photograph by Monique Nelson.

9. All of the work planned on longer trails (over two miles long) will primarily benefit local users, who have more time to hike these trails than the few hours spent at MGRA by cruise ship visitors. The cross-country ski and mountain bike trails in the Dredge Lakes area are planned primarily for non-commercial use. Also, the new public use cabin in Mendenhall campground is intended for use mainly by locals and non-commercial visitors.

10. The project includes an adaptive management plan (ROD, Attachment C) that governs how commercial service days may increase as improved infrastructure

functions to increase capacity. No immediate increase to commercial service day allocation is authorized by the Record of Decision. Prior to any increase, the Forest is required to implement the Adaptive Management Plan that is incorporated as part of the decision.

11. The Adaptive Management Plan requires the Forest to first establish a baseline of existing conditions, using established metrics, to determine how well the MGRA is currently meeting three desired conditions: (1) visitor experiences are positive, (2) biological and physical resources are conserved, and (3) local residents have an opportunity to visit the MGRA.

12. After certain facility construction elements of the project are completed (the Main Visitor Center Unit parking lots and additional restrooms at the Lakeshore Plaza), the Adaptive Management Plan allows for an increase in commercial permitting by 30% of the amount authorized in the decision. The Plan then requires completion of all proposed infrastructure improvements and three years of monitoring, completion of the Visitor Center, West Glacier, and Glacier Spur Road trailhead parking lots, as well as trail improvements on permitted trails, before it authorizes increasing commercial service days to the maximum allocation in the selected alternative.

13. In addition to the infrastructure requirements for increasing commercial service days, the Adaptive Management Plan allows increases in service days *only if* the Forest determines that (1) permit holders for the particular activity/area are using the existing allocation of service days, (2) demand for commercial use is increasing for the

activity/area, and (3) monitoring of the indicators for each desired condition yields no concerns, or concerns have been addressed.

14. Given the requirements of the Adaptive Management Plan, the Tongass National Forest does not anticipate being in a position where it could increase the permitted commercial service day allocation pursuant to this Project decision for at least two years (following the design and construction of the initial infrastructure improvements). The Forest agrees that it will not implement any potential increase in commercial service days authorized pursuant to this Project decision until it responds to the Court's NEPA ruling.

Project Implementation – Current Status

15. The Forest is close to completing the full design for initial infrastructure improvements around the Visitor Center and location of the new Welcome Center. Most aspects of the design are at approximately 80-90% completion.

16. Elements of the project that are intended to address crowded conditions in the Visitor Center office space, which are not associated with any increase in commercial service days, were scheduled prior to issuance of this Court's decision and the Forest has issued a solicitation for the work. The facilities work, which could potentially be completed this year or in early 2026, includes HVAC and electrical repairs within the Visitor Center, improving office space in the non-public lower floor of the Visitor Center, and new carpets in the Visitor Center. The Forest has obligated approximately \$3.5 million for this facilities package.

17. Currently, seasonal and permanent Visitor Center staff, and volunteers who work in the visitor center, have no dedicated workspaces and in some cases have been working from a break room, the boiler room, or electrical room. Thus, the Forest also has an urgent need to reconfigure and expand the office space as authorized by the project.

18. To date, the Forest Service has spent approximately \$3 million on architecture and engineering, as well as design work for initial infrastructure construction, which includes additional restrooms, as well as the Visitor Center parking lots, plaza, additional shelters, restrooms, and improvements to the current viewing pavilion. This funding cannot be recovered if the work does not go forward.

19. For the actual construction work, the Forest Service has approximately \$25 million secured for the initial phase that would cover the construction of the additional restrooms, Visitor Center parking lots, Lakeshore Plaza, additional shelters, and improvements to the existing pavilion.

20. The Forest is negotiating with the State of Alaska over reacquisition of the right-of-way for Glacier Spur Road, which would be necessary for the Forest Service to use certain funding for infrastructure improvements. If the Forest is unable to use the approximately \$25 million in funding it has secured for the initial phase of the project (see paragraph 19, above) within a few years, the agency will very likely reallocate the funding to other projects. The Forest has not yet identified funding to accomplish elements of the project outside the Visitor Center unit of the MGRA.

Existing Conditions on the Ground and Need for Project

21. Despite variations between the alternatives in the estimated number of total visitors (due to the different time horizons for alternatives), and differences in allocations of capacity to commercial permits, the Project alternatives featured similar infrastructure design elements because they were based on the need to relieve existing overcrowding and accommodate people on site at one time (referred to as People At One Time or PAOT) during *peak times* during the summer season. As noted in the Record of Decision, “facilities must be designed to accommodate visitation during peak hours and peak days (generally defined as days when more than four large cruise ships are in port and more than 10,000 visitors arrive in Juneau)” ROD at 28.

22. Specifically, the infrastructure improvements were designed to accommodate approximately 4,000 visitors to the MGRA during peak times.

23. Based on the 2025 season’s monitoring data, the MGRA already receives close to this number of visitors during peak times (commercial and non-permitted visitors combined). For example, during the noon hour on August 12, 2025, 1,908 individuals were counted in the Visitor Center building alone.

24. The 2025 season’s monitoring data indicates that the visitor count to MGRA on the busiest days, from 10 am - 5:30 pm was approximately 23-35% of total estimated visitation in Juneau, and on at least one day with lower estimated visitation to Juneau that percentage reached 57%. The numbers of visitors to MGRA on these days ranged from 3,849 to 6,257. Although visitor counts are totaled by day, most visitors arrive during the same few peak hours depending on when the cruise ships are docked.

These are total visitor numbers, irrespective of whether visitors came via permitted commercial operator or independently.

25. The large numbers of visitors during peak times cause significant traffic congestion, lines at existing restrooms, and packed spaces within the Visitor Center. The Visitor Center was forced to close several times during the 2024 and 2025 seasons when the building exceeded its capacity. The current Visitor Center capacity for people at one time is only 384 people.



Long lines for restrooms inside and outside the Visitor Center, Summer 2025. Photographs by Visitor Center staff.

26. The current infrastructure also creates resource concerns. A female bear and her three cubs frequented the MGRA all summer this year, and there were frequent interactions with visitors – as well as temporary closures to prevent interactions and

negative impacts on the bears – at trail and walkway pinch-points (for example, on and near Photo Point Trail and Nugget Falls Trail), and even on the steps to the Visitor Center. The infrastructure improvements authorized by the project will mean that parking lots are further away from routes frequented by bears, trails are re-routed to avoid pinch-points, and there will also be a bigger area for pedestrians to walk through to avoid bears.

27. The project also authorizes culvert replacements to protect one of three sockeye runs in Juneau, and the new culverts will be larger to accommodate black bear pass-through.

28. A portion of the project authorizes deferred maintenance on trails; the trails will fall into greater disrepair if maintenance is further delayed. Steep Creek trail has experienced significant erosion and needs to be repaired. Nugget Falls and Photo Point trails have been flooded annually by a Glacial Lake Outburst Flood (GLOF) and damaged as a result. There are many pools of standing water. When the trails are in disrepair more people tend to stay in the Visitor Center area itself, causing crowding and lines.

29. Currently the only parking for Glacier Spur Road trailheads is along Glacier Spur Road, which creates a safety concern. Overflow parking at Skater's Cabin and West Glacier trail is also along the road, creating safety concerns.

Consequences of Vacatur – Disruption to Agency, Local Businesses, and Public

30. In addition to the potential loss of \$25 million in obligated funding described above, that would indefinitely delay construction of additional restrooms, the Visitor Center parking lots, plaza, additional shelters, and improvements to the current

viewing pavilion, vacatur of the Project decision would result in continued high costs and disrupted work for Forest Service employees, which the Project is intended to address (see paragraph 31, below). Crowding in the parking lots would continue during the summer season, as well as on nice days during the winter. The existing trails in the Visitor Center unit would continue to be characterized by pinch points that increase human-wildlife interactions.

31. The office upgrades are intended to address difficult conditions in the Visitor Center for employees and volunteers. With respect to offices, the lower portion of the Visitor Center must accommodate 28 people – a combination of Forest Service employees, Central Counsel of Tlingit and Haida employees carrying out a co-stewardship project with the Forest Service, and volunteers from Southeast Discovery, an outdoor educational nonprofit and long-time partner of the Forest Service at MGRA. The reconfigured office would provide these individuals with touchdown spaces where they can work on laptops, instead of working from the break room, utilities room, or wherever they can find a flat surface.

32. In the absence of infrastructure improvements, existing crowded conditions would continue during peak times. In the Juneau Tourism Survey 2024, conducted by McKinley Research Group LLC, locals report being negatively affected by crowding within the Visitor Center unit. Specifically, 67% of respondents reported being very or somewhat affected by crowding at Mendenhall Glacier, meaning that they changed their use of the area as a result of crowding.

33. As noted by the 2024 Juneau Visitor Circulator Study, the lack of commercial service days at the MGRA has resulted in visitors “fill[ing] Capital Transit buses leaving and returning to downtown Juneau.” The Study notes that this “can result in Juneau residents being precluded from being able to accomplish their transit trip due to the lack of capacity on the buses. For such trips as medical appointments or employment, this can have a substantial impact on individuals, indicating a need for additional transit capacity.” See <https://juneau.org/wp-content/uploads/2024/02/Juneau-Visitor-Circulator-Study-Final-Report-2024-1.pdf>, at 39.

34. For the past two seasons, the Forest Service has monitored the number of unpermitted visitors to the MGRA, and determined that on peak days approximately 1,000 individuals visited the MGRA via means other than permitted commercial operators. These individuals arrive on foot (likely from the nearest public bus stop), by rental or other unpermitted vehicle, or by bicycle. They represent a substantial portion of the proposed increase in commercial use that could arrive with a guide or transporter if permits were available. The number of unpermitted visitors is expected to continue to rise commensurate with increasing visitors to Juneau, if there are no additional commercial service days available for visitors.

35. The Forest Service has little ability to limit visitors from coming to the MGRA. The Forest can change a “standard amenity recreation fee” in particular developed recreation areas like the MGRA, but it has no authority to charge an entrance fee. Even if it wished to, the Forest also has little ability to physically exclude people from MGRA to control visitor numbers. There are multiple routes to access the recreation

area, and the area could not be fenced off given the terrain and wildlife concerns. The main access point, Glacier Spur Road, is a road on which the State of Alaska currently holds a right-of-way for public highway purposes.

36. The Forest Service has limited authority to issue an order closing an area of the Forest, for public safety reasons or environmental concerns (such as the presence of a bear, or a landslide). Overcrowding is unlikely to qualify for such a closure, unless it amounts to a safety risk or constitutes depredation of the Forest. Even if it were to seek to close the area based on capacity constraints, the Forest Service has limited resources to enforce a closure order in an unconfined space and against large quantities of individuals walking, biking, or taking rental cars or other unpermitted vehicles on the State's right-of-way, into the MGRA.

Remand – Possible Ways to Address Errors and Anticipated Timeline

37. On remand the Forest Service will carefully consider possible ways in which to address the errors identified by the Court. There are likely several possible solutions that would not fundamentally alter the construction components of the Project. The Forest Service may clarify the purpose and need and supplement the analysis of alternatives accordingly. For example, the current alternatives vary the amount of visitor capacity based on a fixed percentage growth, but over different time horizons. The Forest could instead vary the percentage growth, but over a fixed time horizon, or provide a range of visitation from which to design facilities without relying on general tourism growth estimates for Juneau overall.

38. The Forest would also carefully consider how to clarify current conditions and the impacts of the No Action Alternative, including clarifying the agency's expectations regarding unpermitted visitors to MGRA if commercial service days do not increase. Another option would be to add documentation for more alternatives considered but eliminated from detailed study, including those considered during the master planning phase of the project.

39. If the project decision and EIS were to be vacated it would likely be at least two years before the Forest Service would be able to publish a new EIS and decision, assuming that level of analysis was still required for the project. It is possible and may be likely that the approximately \$25 million in funding the Forest was able to secure for this project would no longer be available after that length of time.

Remand – No Increase in Commercial Visitor Permits

40. As noted above, the Project decision at issue does not authorize any immediate or automatic increase in commercial service day allocation, and as a practical matter no increase could occur under the decision for approximately 2 years or until the initial phase of construction has been completed.

41. The Forest Service will not rely on the Project decision at issue to authorize additional commercial service days until it has responded to the NEPA deficiencies found by the Court.

42. The Forest Service anticipates that it will be able to complete the additional analysis required within a year or two of the Court's decision on remedy.

This declaration is made pursuant to 28 U.S.C. § 1746. I declare under penalty of perjury that the foregoing is true and correct to the best of my current knowledge.

Signed this 11 day of December, 2025.

A handwritten signature in blue ink, appearing to read "Monique Nelson", is written over a horizontal line.

Monique Nelson
Tongass Forest Supervisor