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Date: April 13, 1999

*Mike McKimens, Chairperson
Cheryl Fecko, Chairperson
Prince of Wales Conservation League
P.O. Box 1109
Craig, Alaska 99921*

RE: Appeal of the Record of Decision for the Tongass National Forest Land and Resource Management Plan (#97-13-00-0113-A217)

Dear Mr. McKimens and Ms. Fecko:

Pursuant to 36 CFR 217, this letter is our decision on your appeal of Regional Forester Phil Janik's May 23, 1997, Record of Decision (1997 ROD) which approved a revised Land and Resource Management Plan (1997 Forest Plan) for the Tongass National Forest in Alaska.

Your Notice of Appeal (NOA) was received on October 1, 1997. Your appeal on behalf of the Prince of Wales Conservation League was timely as it was postmarked September 25, 1997. The Regional Forester transmitted the relevant decision documentation and pertinent appeal records (AR) to this office on November 11, 1997. Many interested parties requested and were granted intervenor status (see enclosed list of parties). Intervenors whose comments were received are also listed on the enclosed list of parties.

Secretary Review and Evaluation

The 1997 Forest Plan is based on Alternative 11 in the Tongass Land and Resource Management Plan Revision Final Environmental Impact Statement (FEIS), with modifications as documented in the 1997 ROD. The decision to approve the 1997 Forest Plan was subject to appeal in accordance with Forest Service appeal regulations at 36 CFR 217. Thirty-three notices of appeal were filed on the May 23, 1997, decision. In addition, two lawsuits have been filed that involve the appeals of the 1997 ROD. Also, the 1997 Forest Plan is implicated in at least one other lawsuit unrelated to appeals.

As the Under Secretary for Natural Resources and Environment at USDA, I have elected to exercise discretionary review of the administrative appeals relating to the Regional Forester's approval of the 1997 Forest Plan. This is not a step I take lightly. It is my belief that the continuing controversy and exceptional circumstances surrounding the Tongass Land and Resource Management Plan warrant my direct and immediate participation in order to bring

this controversy to closure as quickly as possible so that the Forest Service can move forward with the Modified 1997 Forest Plan implementation. The residents of Southeast Alaska, their communities and elected officials, as well as business and organizations from the region, have long sought certainty in the management of the Tongass National Forest. A key to this certainty is ensuring the sustainability of the goods and services produced by the Tongass National Forest, and all the resources on which they depend. The enclosed 1999 ROD seeks to provide that certainty built upon a foundation of sustainable natural resource stewardship. Therefore, I have reviewed these appeals and related records. My decisions in the appeals reflect modifications contained in the enclosed 1999 ROD.

The 1999 ROD documents my decision and rationale to modify the 1997 Forest Plan. I am modifying some aspects of the 1997 Forest Plan, not because I find that it fails to meet mandatory requirements, but because I have concluded that, for multiple use reasons and to reduce the level of environmental risk, the Secretary's responsibilities and authorities should be exercised differently to improve the Forest Plan. The enclosed 1999 ROD changes development land use designations (LUD's) to mostly natural LUD's in 18 Areas of Special Interest totalling approximately 234,000 acres. The 1999 ROD also strengthens a standard and guideline (S&G) and adds another to address certain wildlife species, to improve subsistence opportunities and to reduce risk to old-growth ecosystem viability. Adjustments I made to management direction, together with unchanged portions of the 1997 Forest Plan, will hereinafter be referred to as the Modified 1997 Forest Plan. The Modified 1997 Forest Plan is the document titled "Land and Resource Management Plan - Tongass National Forest", dated 1997, and is based on Alternative 11 in the "Tongass Land Management Plan Revision Final Environmental Impact Statement" with modifications as noted in the enclosed 1999 ROD.

Regulatory Authorities

The regulations governing forest plan appeals are not based on statutes that require an appeal system, but instead are one way the Department meets its responsibilities under the Organic Act (16 U.S.C. 472, 551), the Multiple Use-Sustained Yield Act (16 U.S.C. 528-531) (MUSYA), and the National Forest Management Act (16 U.S.C. 1600, et seq.) (NFMA). As Under Secretary I am charged to provide leadership in resource management and assure the protection, management, and administration of the National Forests (7 U.S.C. 2.20). I also am charged under 7 U.S.C. 2.20(a)(2)(viii) to "exercise the administrative appeal functions of the Secretary of Agriculture in review of decisions of the Chief of the Forest Service pursuant to 36 CFR 215 and 217, and 36 CFR 251 Subpart C."

The regulations governing forest plan appeals (36 CFR 217.17) provide for discretionary review by the Under Secretary. Discretionary review is based on the appeal record presented to the Chief (36 CFR 217.17(e)). The appeal regulations grant broad latitude in deciding when to invoke discretionary review (36 CFR 217.17(a)). The 1997 Forest Plan falls within the scope of the identified factors that include, but are not limited to, the "controversy surrounding the decision, the potential for litigation, whether the decision is precedential in nature, or whether the decision modifies existing or establishes new policy." In fact, probably not since the Secretaries of Agriculture and the Interior jointly signed the 1994 "Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl" has there been as compelling a

need for final resolution of such a long-standing land management controversy. An expedited discretionary review harms no appellant's interests as the Chief's decision would be subject to discretionary review in any event, and the review is based on the same record. In sum, expediting the discretionary review portion of the appeal process, although unconventional, is in the best interest of the residents of Southeast Alaska and the public at large, and within the spirit and letter of the appeal regulations.

I find that the Regional Forester complied with applicable Federal law and agency policy in his approval of the 1997 ROD for the 1997 Forest Plan. However, as previously discussed, I feel modifications are needed to reduce the level of risk and uncertainty for ensuring environmental protection regarding three key issues which I found could be improved upon from the 1997 Forest Plan: (1) subsistence use and associated deer winter range/deer habitat capability; (2) assurance of adequate amounts and distribution of old-growth forest for species viability; and (3) protection of Areas of Special Interest.

My decision on the appeals reflects those modifications contained in the enclosed 1999 ROD and is the final administrative action by the Department of Agriculture.

The Modified 1997 Forest Plan

The Modified 1997 Forest Plan is a programmatic framework for management of an administrative unit of the National Forest System.¹ The enclosed 1999 ROD explains what the Modified 1997 Forest Plan does. "This Plan provides the broad, programmatic direction necessary to manage the resources and uses of the Tongass National Forest in a coordinated and integrated manner" (Modified 1997 Forest Plan). It "will guide the management of the Tongass National Forest for the next 10 to 15 years" (1999 ROD). The components of Forest Plan direction, "along with the Land Use Designation map, establish a management framework that governs the location, design, and scheduling of all Forest management activities. Within the management framework, project-level planning is undertaken to achieve Forest Plan implementation" (Modified 1997 Forest Plan). The Modified 1997 Forest Plan sets forth goals and objectives for management and establishes programmatic standards to follow in pursuit of those goals. "Goals are achieved through the allocation of lands to the set of LUD's, through implementation of the Standards and Guidelines specified for the LUD's, and through other activities conducted on the Forest" (Modified 1997 Forest Plan). Pursuant to NFMA, the Modified 1997 Forest Plan identifies land that is suitable for timber production and determines the allowable sale quantity (ASQ), and other resource outputs, all of which are estimates.

Implementation of the Modified 1997 Forest Plan will take place through project-level decisions which must be within the bounds of the programmatic framework. As stated in the Modified 1997 Forest Plan, implementation is "accomplished through the recurrent identification of proposed actions . . . consistent with activities anticipated in the Plan; the

¹*The Modified 1997 Forest Plan and FEIS were prepared under the authority of the Multiple Use-Sustained Yield Act (MUSYA) (16 U.S.C. 528-531); the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the NFMA (16 U.S.C. 1601-1614); the implementing regulations of NFMA (36 CFR 219); and the NEPA (42 U.S.C. 4321-4335 and its implementing regulations (40 CFR 1500-1508).*

analysis and evaluation of such actions . . . ; related documentation and decisionmaking; and project execution and administration, in a manner that is consistent with the management direction of the Plan" (Modified 1997 Forest Plan). Thus, the Modified 1997 Forest Plan standards operate as parameters within which projects must take place. Approval of any project must be consistent with the management standards. If a project cannot be conducted within these parameters, these safeguard mechanisms in the Modified 1997 Forest Plan will prevent such development from going forward (see Swan View Coalition v. Turner, 824 F.Supp 923, 933 (D. Mont. 1992)).

The 1999 ROD (Section VIII, Appeal Rights) notes that decisions on site-specific projects are not made in the ROD and that such decisions will not be made until completion of environmental analysis and documentation for the specific project, in compliance with the National Environmental Policy Act (NEPA). Thus, approval of the Modified 1997 Forest Plan does not mandate any project decisions. Each project or activity must be consistent with the programmatic environmental protection direction in the Modified 1997 Forest Plan (16 U.S.C. 1604 (i)).

Finally, the Modified 1997 Forest Plan establishes monitoring requirements to help determine how well the standards and management direction are working and whether the goals remain appropriate throughout the plan period. As stated in the Modified 1997 Forest Plan, ". . . monitoring and evaluation comprise an essential feedback mechanism within an adaptive management framework to keep the Plan dynamic and responsive to changing conditions."

In summary, the Modified 1997 Forest Plan establishes a framework for decisionmaking on the Tongass National Forest using programmatic direction as a gateway for compliance with environmental laws at the project level.

Response to Concerns

Your appeal contains concerns related to old-growth, wild and scenic rivers, and municipal watersheds. As relief you request that the revised Tongass National Forest Plan be amended.

My response to your concerns provides a focused response to contentions involving complex resource management issues. Although every contention made by you may not be cited in this decision, all of your concerns have been considered. My review of the concerns has focused upon the Regional Forester's compliance with law, regulation, and policy.

Cumulative Impacts of Clearcutting on Public and Private Lands

The appellant contends that, "[t]he Forest Plan fails to address the cumulative impacts of clearcutting on both public and private lands, and therefore violates NEPA" (NOA, p. 2).

Discussion

The record indicates the Regional Forester took into account the cumulative effects of timber harvest, on private lands, on visual quality and scenery, biodiversity, old growth habitats, and other wildlife habitats and populations, in the analyses.

"It should be noted that the visual effects of timber harvest activities are not limited to the specific location of the activity. As seen from a travel route or use area, such alterations can affect the visual appearance of the entire viewed landscape . . . In this sense, the Forest-wide VQO's [visual quality objectives] are best thought of as an indicator of long-term, cumulative effects" (FEIS, p. 3-178). Cumulative effects result "from the incremental effects of actions, when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative effects can result from individually minor, but collectively significant, actions taking place over a period of time" (FEIS, p. 3-1).

The Biodiversity section discusses various elements, such as old-growth forests, which were used to analyze effects to biodiversity. It states "[p]rivate land development and the resulting changes to forested acres cannot be quantified in the same way, but have been considered in the analysis" (FEIS Appendix L, p. L-15).

In describing the panel assessment process, the FEIS describes information available to the panelists including "maps . . . displaying the spatial distribution of existing Congressionally designated reserves, old-growth timber lands, other forest lands, and non-Federal ownership; and displaying potential areas of timber harvest for each alternative" (FEIS, p. 3-31).

Regarding private land analysis in general, the FEIS states "[p]ast, present or future actions on adjacent private lands have not been consistently documented or reported, and are not known in sufficient detail to include quantitatively in the effects analysis. Most Forest-wide analyses, for instance concerning wildlife habitat, assume no contribution from private lands" (FEIS Appendix L, p. L-61).

"Data on timber harvest locations, or amounts by volume class, are generally not available for most [private land] areas. Forest-wide standards and guidelines are included in the Forest Plan to direct that cumulative effects of logging and other activities on private or State lands in conjunction with individual projects are evaluated if applicable during site-specific environmental analysis for those projects" (FEIS, p. L-61).

Decision

After reviewing the record, I find that cumulative effects, including from private lands, were adequately discussed. I affirm the Regional Forester's decision. Nothing in the enclosed 1999 ROD affects the 1997 ROD on this issue.

Old-Growth Habitat

The appellants believe an inadequate amount of old growth has been protected (NOA, pp. 2-3).

Discussion

The planning regulations (36 CFR 219.1 (a)) state that "plans shall provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long term net public benefits in an environmentally sound manner." Net public benefits include all outputs and effects, both positive and negative values that cannot be quantitatively valued, and, therefore, require the decisionmaker to subjectively balance such benefits with costs with each other and with those that can be quantified. The planning regulations (36 CFR 219.12 (f)) state that "the primary goal in formulating alternatives, besides complying with NEPA procedures, is to provide an adequate basis for identifying the alternative that comes nearest to maximizing net public benefits, consistent with the resource integration and management requirements of sections 219.13 through 219.27." LUD's, of which old growth is one, are designed to help achieve the multiple-use and net public benefit objectives.

The LUD's "specify ways of managing an area of land and the resources it contains. LUD's may emphasize certain resources (such as Wilderness, or old-growth wildlife habitat), or combinations of resources (such as providing for scenic quality in combination with timber harvesting). Each land use designation has a detailed management prescription which includes practices and standards and guidelines" (FEIS, p. 2-1).

The Tongass Timber Reform Act (TTRA) legislated areas to LUD II and wilderness. The Forest Service is required by law to uphold these designations. The 1997 Forest Plan does not diminish the integrity of those LUD's designated by TTRA. Instead, the 1997 Forest Plan standards and guidelines ensure that LUD II and wilderness areas legislated by TTRA are upheld and protected. Salmon Bay is a Legislated LUD II area which will be managed in the roadless state to retain the wildland character. The area adjacent to the Salmon Bay LUD II and within the Salmon Bay Lake watershed is "mostly allocated to the Scenic Viewshed LUD, with the remainder in old-growth. These LUD's provide for scenic and recreation values by minimizing the visibility of timber harvest activities" (FEIS Appendix L, p. L-280).

The Regional Forester recognized that certain areas of the Tongass National Forest, including several areas you are concerned with on the Prince of Wales Island, were of special interest or concern and required land use allocations that provided additional resource protection. In some cases LUD's providing for resource opportunities other than old-growth, were best suited to provide for multiple use and sustained yield of goods and services in a way that maximized long term net public benefits. As he explained in the 1997 ROD, some of the land allocations in the 1997 Forest Plan "[r]eflect concerns raised in public comments, and most provide additional protection to areas of special interest or with specific resource values" (1997 ROD, p. 10).

The Regional Forester recognized the heightened interest of certain locations and carefully considered those areas in his decision. He specifically mentioned Honker Divide:

"On Prince of Wales Island, almost all of the area known as Honker Divide is allocated to the Old-growth Habitat LUD, with a portion along the outer boundary in Scenic Viewshed, where limited timber harvest could occur. Thorne River and Hatchery Creek are recommended for inclusion in the National Wild and Scenic Rivers System. An area of Old-growth Habitat also connects Honker Divide to the Karta Wilderness" (1997 ROD, pp. 10-11).

The Forest responded to public comments related to the "Haida Inlets", which include Keete Inlet, Mabel Bay, and Kassa Inlet. As explained in Appendix L of the FEIS on pages L-276 through L-277:

The National Forest lands on the east side of Sukkwan Island and on Goat Island, and most of the smaller islands nearby, are allocated to Semi-remote Recreation, as are the National Forest lands in Hetta Inlet. They will be managed for their recreation and subsistence values and scenic qualities. The "Haida Inlets" include Nutkwa and Keete Inlets (VCU 685), Mabel Bay (VCU 688), and Kassa Inlet (VCU 689). National Forest lands in Nutkwa Inlet are now within a Legislated LUD II area and fully protected. Kassa Inlet, Mabel Bay, and Hassiah Inlet are in the Timber Production LUD. Keete Inlet is in Old-growth Habitat which will provide continued subsistence use opportunities in a natural setting. Standards and guidelines for the identification and protection of cultural sites apply to all land use designations, and cultural resource inventories are conducted before any ground-disturbing activities take place.

As mentioned, analysis as well as public comment indicated certain lands on the Tongass National Forest, were areas of special concern or resource potential. As explained in the Regional Forester's decision, "[i]n the meanwhile, special areas of concern have been fully considered and have been designated under specific LUD's. These designations, in some cases, allow unroaded lands to be included in the suitable timber base. In other cases, they preserve the roadless and wilderness character of the land" (1997 ROD, p. 23). Each area's attributes and resource potentials were carefully considered. In his decision the Regional Forester set "forth the land allocations of particular concern", which include land allocations for Honker Divide (1997 ROD, p. 23). The various LUD standard and guidelines (Chapter 3 of the 1997 Forest Plan) provide management direction and protection for those areas on Prince of Wales Island you are concerned with, as well as other areas on the Tongass National Forest.

Decision

After reviewing the record, I find that the issue of old growth protection for areas of Prince Wales Island was discussed. The various LUD's assigned throughout the Tongass National Forest reflect careful consideration of the effects analysis, public comments, and the multiple-use goals and objectives of the Forest.

However, based upon my review of the record, I have determined there was a need to modify the provisions of the 1997 Forest Plan to better address LUD's. I have changed development LUD's to mostly natural LUD's on Prince of Wales Island, therefore, strengthening protection for old growth and scenic viewshed quality. Please refer to the Areas of Special Interest Section of the enclosed 1999 ROD.

The appellants disagree with the wild and scenic river evaluation (NOA, p. 3).

Discussion

Eligibility is the first step in the assessment of a river segment for potential inclusion in the National Wild and Scenic River System. As part of the forest planning process, river study teams determine eligibility for wild and scenic river designation by applying the criteria in sections 1(b) and 2(b) of the Wild and Scenic Rivers Act (WSRA) and the procedures established in the Forest Service Handbook (FSH 1909.12, 8.21). In summary, the Forest Service determination of eligibility for wild and scenic river designation, as part of the forest planning process, includes specialists' evaluations (based on criteria in section 1(b) of the WSRA) of identified rivers, consideration of public comments, and a determination of eligibility by the deciding officer.

The next step results in the classification of the study river as "wild," "scenic," or "recreational." For those rivers which the study teams finds eligible, the third and final step is a determination of whether the river is suitable for inclusion in the national system. This step can be done during the forest planning process or at a later date. Criteria of primary importance in determining suitability are the qualities that a river segment possesses, as identified through the eligibility evaluation (and as directed under sections 1(b) and 2(b) of the WSRA and FSH 1909.12, 8.21). However, there are several other important criteria that should be considered in determining suitability, as directed under FSH 1909.12, 8.23 and the Final Revised Guidelines for Eligibility, Classification and Management of River Areas, 47 Federal Register 39454 (September 7, 1982). The factors to consider include:

- 1. The characteristics which do or do not make the area a worthy addition to the National System (e.g. "outstandingly remarkable" values identified during the eligibility analysis and the river segment's free-flowing condition).*
- 2. The current status of land ownership and use in the area, including the amount of private land involved and the uses on such land.*
- 3. The reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the Wild and Scenic River System, and the values which could be foreclosed or diminished if the area is not protected as part of the System.*
- 4. Public, State, and local governmental interest in designation of the river, including the extent to which the administration of the river, including the costs thereof, may be shared by State and local agencies.*
- 5. The estimated cost of acquiring necessary lands and interest in land and of administering the area if it is added to the System.*
- 6. Other issues and concerns identified during the planning process.*

Once these factors have been fully evaluated, a determination is made on whether the river segment should or should not be recommended for designation as part of the System. As

provided at FSH 1909.12, 8.41(2), wild and scenic river suitability determinations conducted as part of the forest planning process are:

. . . a preliminary administrative recommendation for the wild and scenic designation . . . that will receive further review and possible modification by the Chief of the Forest Service, Secretary of Agriculture, and the President of the United States. The congress has reserved the authority to make final decisions on designation of rivers as part of the National Wild and Scenic Rivers System.

The three rivers of special concern to the appellants, Honker Divide, Johnson Lake and Stream, and Soda Creek Lake and Stream were all discussed in the Wild, Scenic and Recreational River Suitability Analysis and were not recommend for "wild" designation (1997 ROD Appendix A, pp. A-7, A-19, and A-20 respectively). Several of these rivers were discussed in two other documents in the planning record discussing wild and scenic rivers (RS-G-6, TLMP 1048, and RS-G-6-b, TLMP 14395).

Decision

After reviewing the record, I find that, with regard to the rivers of special concerns to the appellants, wild and scenic river designation and eligibility was adequately discussed. I affirm the Regional Forester's decision. Nothing in the enclosed 1999 ROD affects the 1997 ROD on this issue.

Municipal Watershed Land Use Designation

The appellants believe more protection should be afforded to municipal watersheds (NOA, p. 3).

Discussion

"The State of Alaska (Department of Environmental Conservation) and the Forest Service have agreed that the Forest Service is the agency responsible for monitoring and protecting water quality on the National Forest System lands in Alaska, for the purposes of the Clean Water Act, as amended. Best Management Practices (BMP's) as prescribed in the Soil and Water Conservation Handbook (Forest Service Handbook 2509.22), the Alaska Nonpoint source Pollution Control Strategy, and the Alaska Water Quality Standards (18 AAC 70) together form the "Forest Service Alaska Region Water Quality Management Plan", as agreed to in the Memorandum of Agreement dated April 6, 1992 (ADEC and USDA Forest Service, 1992). With implementation of the 1997 Forest Plan, "the State recognizes that the Forest Service BMPs are the primary means to protect water quality from nonpoint sources of pollution" (FEIS, p. 3-314). Clearly, the State of Alaska supports and approves the BMP's.

The BMP's may be defined as: "land management methods, measures or practices intended to minimize or reduce water pollution including, but not limited to, structural and nonstructural controls, operation and maintenance procedures, other requirements, and scheduling and distribution of activities. The site-specific application of the BMP's is

designed with the consideration of geology, land type, hydrology, soil type, erosion hazard, climate, cumulative effects, and other factors in order to fully protect and maintain soil, water, and water-related beneficial uses, and to prevent or reduce nonpoint source pollution" (1997 Forest Plan, Appendix C, p. C-1).

You state in your appeal that the goals for the Municipal Watershed LUD "must be changed to include all current and future Federal Government water quality standards" (NOA, p. 4). The standards and guidelines for the Municipal Watershed LUD provide protection measures and management direction for public water systems. As stated in the 1997 Forest Plan, the goal for the Municipal Watershed LUD is "to maintain these watersheds as municipal water supply reserves, in a manner that meets State of Alaska Drinking Water Regulations and Water Quality Standards for water supply" (1997 Forest Plan, p. 3-68). "Watersheds serving unincorporated communities and other non-municipal water systems will be managed under Forest-wide standards and guidelines" (1997 Forest Plan, Chapter 4, Soil and Water) (FEIS, p. 3-324).

In Chapter 4 of the 1997 Forest Plan on pages 4-83 through 4-85, Forest-wide standards and guidelines for soil and water specifically address public water systems:

"A. Secure "favorable conditions of water flows" (Organic Administration Act of 1897). Maintain water quality consistent with Alaska Water Quality Standards for water supply (18 AAC 70) and Alaska Drinking Water Regulations for source water protection (18 AAC 80.015(a)). Avoid management activities which are likely to pollute a known public water system or violate Alaska Water Quality Standards. Conduct watershed analysis and consult with the Alaska Department of Environmental Conservation before authorizing management activities that create or maintain a condition that has a significant potential to cause the pollution or contamination of a public water system.

1. For incorporated city watersheds, refer to the Municipal Watershed Land Use Designation.

2. For unincorporated communities and other public water systems, coordinate with owners or operators of public water systems to meet watershed protection needs on a case-by-case basis. Develop written agreements with owners or operators consistent with 18 AAC 80.520(c)(3) and 36 CFR 251.9, if appropriate. Consult with owners or operators before authorizing management activities" (1997 Forest Plan, p. 4-85).

In your appeal you stated that "[a]ll watersheds within the Tongass National Forest that are used as public drinking water sources as defined by Alaska State Statutes should be given the Municipal Watershed Land Use Designation" (NOA, p. 4). The Forest responded to a public comment that shared concerns similar to yours. The Forest explained that the Enacted Municipal Watershed LUD management prescription was a land allocation only intended to address those watersheds designated by law. However, for the 1997 Forest Plan, the Municipal Watershed LUD was expanded to include additional watersheds for Southeast Alaska's nine incorporated cities (FEIS Appendix L, p. L-13). Thus the Forest exceeded state requirements.

As previously explained, "[s]tandards and guidelines for other sources of drinking water are included in the Soil and Water Forest-wide Standards and Guidelines in Chapter 4 of the 1997 Forest Plan. These refer specifically to state-designated beneficial uses of water and the use of Best Management Practices to protect these uses. Since the State of Alaska's regulations apply the drinking water standard to all streams on the Tongass as the beneficial use of water, all sources of drinking water will meet State standards" (FEIS Appendix L, p. L-13). A comment (1996) to the 1997 Tongass Forest Plan revision voiced concerns related to non-municipal water supplies: "The water standard and guidelines for non-municipal water supplies should be revised to ensure consistency with the source water protection provisions of the newly reauthorized Safe Drinking Water Act" (FEIS Appendix L, p. L-13). The Forest explained that, "the source water protection provisions of the Safe Drinking Water Act apply to states" (FEIS Appendix L,

p. L- 13). The Forest goes on to state that "[i]f the State of Alaska develops a source water protection program in the future," they "will evaluate whether the Forest Plan needs to be amended at that time" (FEIS Appendix L, p. L-13).

The Regional Forester carefully evaluated the protection and management direction provided by the 1997 Forest Plan standards and guidelines, and state and Federal law for water systems on the Tongass National Forest. He stated in his decision:

"Full implementation of the Plan and this ROD is expected to maintain and improve water quality and satisfy all State water quality requirements. I base this finding on the extensive standards and guidelines contained in the Plan, the application of state approved 'Best Management Practices' specifically designed to protect water quality, and the discussion of water quality and beneficial uses contained in the Final EIS (pages 3-323 and pages 3-56 through 3-73). Examples include the beach and estuary fringe areas, riparian buffers, and road design requirements. Additionally, project level analysis for subsequent activities under the Plan will be required to demonstrate compliance with Clean Water Act and State water quality standards" (1997 ROD, p. 38).

As demonstrated by the preceding discussion, the requirements of the Clean Water Act, the State of Alaska Drinking Water Regulations, Alaska Water Quality Standards for water supply, the Municipal Watershed LUD standards and guidelines, and the Forest-wide standards and guidelines provide protection and management direction for both municipal and non-municipal watersheds. To further ensure water quality is maintained and improved at the project level, the Forest must incorporate BMP's into site-specific applications to protect water resources.

Decision

After reviewing the record, I find that the Municipal Watershed LUD was adequately considered and is in compliance with State water quality requirements. I affirm the Regional Forester's decision. Nothing in the enclosed 1999 ROD affects the 1997 ROD on this issue.

Sincerely,

/s/ James R. Lyons

*JAMES R. LYONS
Under Secretary,
Natural Resources and
Environment*

Enclosures:

*List of Parties
1999 ROD*