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Carrie Starkey
Executive Director

To: Alaska Roadless Rule
USDA Forest Service Alaska Region
Ecosystem Planning and Budget Staff
P.O. Box 21628
Juneau, Alaska 99802-1628

10 October, 2018

Greetings from the Greater Ketchikan Chamber of Commerce. We are a diverse community-based organization comprised of over 250 members, including private sector businesses, non-profit organizations, and local governments. Our member-businesses include some of the largest employers in southeast Alaska, as well as the State of Alaska, which provide family-wage jobs to thousands of Alaskans. The Ketchikan Chamber brings businesses, investors, and customers together, and work towards the common goal of encouraging a sustainable economy which can preserve the socioeconomic well-being of our community, and the families who call it home. The Chamber represents business of all types - tourism, commercial fishing, sports fishing, mining, timber, transportation, and energy – and believes that a very broad diversity of businesses can coexist and share increased access to the Tongass without producing harmful effects upon one-another.

For years, the Ketchikan Chamber of Commerce's Board of Directors has taken the position, in support of our diverse members' interests, that **the Tongass National Forest must be completely exempt from the Roadless Rule. The Chamber continues to hold this position to this day.** Additionally, we find the Roadless Rule to be illegal, for the reasons outlined in Attachment A.

The Roadless Rule has resulted in tremendous harm to our region's economy, restricting economic opportunities and contributing to significantly population decline and outmigration – particularly of skilled members of the workforce and young people who are frustrated by limited and inequitable opportunities compared to locations elsewhere in Alaska and the lower 48. We call upon the USFS and federal leadership to engage in rulemaking to remove this constraint upon our region's economy, businesses, and families.

The Chamber believes that we must be able to access the resources of the Tongass in a responsible manner to create jobs for Alaskans. Otherwise, demand for products such as metals and forest products will be met by overseas sources, which

may have far looser environmental, labor, and safety laws,¹ and which will enjoy the economic benefits of jobs at America's expense. Natural resource development is a matter of supply and demand. Restricting access to natural resources in the US has absolutely zero impact upon demand; the same resources will still be in demand by the same sources. The often-stated belief that failing to develop the Tongass's natural resources somehow enhances environmental quality for the benefit of the US, and the world, is logically flawed. In fact, failing to develop our own resources simply shifts the location of where resource development occurs – and with it, where jobs are created. Extending the life of a tree² in the Tongass simply means a tree will be cut sooner elsewhere. Leaving minerals in the ground in Alaska means that they will be extracted in a different location. Failing to develop new renewable energy resources means that energy needs will be met by alternate sources – which may require significant use, extraction, and processing of fossil fuels. Failing to develop our resources means we will be paying others for their resources, and providing others with jobs at our own cost. The Chamber strongly prefers that we have the ability to access our own locally-available natural resources, so that we can develop them in more responsible and sustainable manner than would be done overseas.

As stated in the first paragraph, the Chamber represents businesses of all types, and believes they can share increased access to the Tongass without producing harmful effects upon one another. Our organization has noted a concerning trend in recent public comments and advocacy where groups pit one resource or industry against another – for example, playing fishing or tourism against timber.³ This logic ignores many of the excellent synergistic benefits which different industries and user types can create for each-other. The majority of tourists visiting southeast Alaska are visiting communities which were constructed and sustained by natural resource-based industries. Without these industries, there would be very few (if any) communities for tourists to visit. Visitors rely heavily upon roads constructed by the timber industry to access and enjoy the Tongass National Forest. Recreational and subsistence hunters utilize logging roads to access streams and habitat. Sports fisherman and guides utilize roads constructed by the timber industry to access world-class fishing opportunities. There are also various examples of small hydropower projects coexisting with hatcheries in order to

¹ Which risk not being enforced.

² Trees eventually die on their own. And, they can be replanted and regrown; a practice which is more likely to occur in the US than overseas.

³ This is especially prominent lately due to recent low salmon returns, which we note are occurring at a time when timber and mining activities within the Tongass are at a 100-year low.

provide clean energy, while enhancing salmon stock.⁴ Renewable energy projects frequently are required incorporate recreational benefits and enhancements, such as public access trails. The USFS has an excellent opportunity to facilitate creation of these synergistic benefits by diversifying and harmonizing user types within the Tongass without the restrictions of the Roadless Rule.

The Ketchikan Chamber of Commerce filed numerous formal comments, suggestions, and formal Objections during 2016 TLMP Amendment process. (<http://www.ketchikanchamber.com/2016-tlmp-comments>) We do not believe the 2016 Plan Amendment which resulted addressed our concerns, the needs of the Ketchikan community, the needs of southeast Alaskan communities where many of our members invest and do business, or the region's timber, mining, and energy businesses.

We are concerned to hear recent public comments by special interest groups that the Tongass Advisory Committee (TAC) developed appropriate and balanced recommendations for the region; this could not be further from the truth. The overall objectives and outcomes of the TAC's recommendations for the TLMP were pre-ordained and preconditioned. The federal Charter governing the Tongass Advisory FACA Committee was incredibly narrow in scope^{5,6}, restricting the committee from developing recommendations other than those supporting a transition to a young growth-based timber industry, despite the fact that a young growth-based industry was known and stated not to be economically viable.⁷ The facilitators of the TAC – Meridian Institute - strictly enforced the restrictive nature of the FACA charter, and prevented the group from exploring alternative recommendations for the Roadless Rule, rejecting the young growth transition due to it not being economically viable, and exploring other topics not expressly specified by the Charter. This resulted in no consideration whatsoever of impacts

⁴ Consider the Whitman Lake project, or the Neets Bay hatchery, which utilizes a small hydropower project.

⁵ The Final Recommendations for the TAC states on page 2: "This Plan Amendment is being drafted in a time marked by transition. It is the transition away from predominantly old growth timber harvest to young growth harvest. **The Secretary of Agriculture has specifically spelled out the terms of this transition when he set up the Charter for the TAC** (see Appendix B, pg. 32)." (Author's emphasis.)

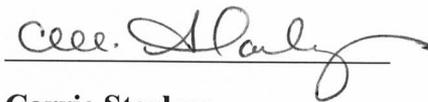
⁶ The Charter States under Section 3: "This forest management strategy **will emphasize a shift to young growth management**. The rationale for shifting to a predominantly young growth-based forest management program is explained in the January, 2013 Leader's Intent Paper, **providing overall direction for the Committee.**"

⁷ In fact, even the Record of Decision for the TLMP Amendment states that a young growth-based timber industry is not economically viable. The question is raised as to why the USFS would hasten a transition from a legacy industry to a new and unproven industry, proven to not be economically feasible.

of federal land management practices in the Tongass upon industries other than the non-economic young growth timber industry. Issues of access for mining, transportation, communications, energy, and other sectors were ignored by the TAC. The results of the TAC's efforts were pre-ordained by the Charter to reinforce a pre-determined, shift to young growth timber – an industry known not to be economically viable.

The limits imposed upon the TAC, and the 2016 TLMP amendment in general, also resulted in adoption of management practices and strategies which are in complete discord with federal priorities regarding domestic energy security, reliable and predictable access to clean domestic renewable energy, securing domestic sources of strategically critical rare earth elements,⁸ and creation of American jobs versus importing raw materials such as timber and minerals from overseas locations with far less restrictive labor and environmental laws. The Tongass National Forest comprises over 17 million acres, which provides tremendous opportunities for the USFS to be held accountable for producing increased job creation, energy security, and strategic mineral production benefits for the US. However, to do that, the Roadless Rule must be eliminated, and the USFS must align management practices with federal policy to an increased extent.

Sincerely,



Carrie Starkey

Executive Director, Ketchikan Chamber of Commerce

cc: President Donald J. Trump
Secretary of Agriculture Sonny Perdue
Senator Lisa Murkowski
Senator Dan Sullivan
Congressman Don Young
Governor Bill Walker
DNR Commissioner Andy Mack

⁸ UCore's Bokan Ridge project, currently in advanced exploration phases, is one example of the significant potential for accessing REEs within the Tongass. However, if access is not available to explore and potentially develop REE supplies, countries such as China will continue to control the market, and utilize their status as an oligopolic supplier to exert leverage on the US.

Attachment A

THE ROADLESS RULE'S IMPACTS ON RESOURCE DEVELOPMENT

- **Failure to Consider Impacts On Hydropower Development In Southeast:** Hydropower has been used in Southeast Alaska for over 100 years. Given the federal government’s involvement in the construction of Southeast Alaska hydropower facilities, USDA certainly was aware of the Tongass hydropower potential.

i. **Failure to consider the Intertie.** On November 13, 2000, two months prior to the January 12, 2001 ROD, Congress authorized a Southeast Alaska-wide intertie.⁹ Remarkably, neither Public Law 106-511 nor Report #97–01 of the Southeast Conference – which Public Law 106-511 implemented – is referenced in the 2001 Roadless Rule. It does not mention the power cost savings the Southeast Alaska Intertie program could bring to rural communities if not for the Tongass Decision.

ii. **Prohibition of road access to new hydropower sites.** Future hydropower and support facilities, such as those envisioned by Report #97- 01, will be subject to the prohibition on road construction. *See* 66 Fed. Reg. at 3256 (“The final rule retains all of the provisions that recognize existing rights of access and use. Where access to these facilities is needed to ensure safe operation, a utility company may pursue necessary authorizations pursuant to the terms of the existing permit or contract.”) (emphasis added). Future facilities do not fall within that exception.

Likewise, the summary of Roadless Rule costs and benefits displayed in Table 1 indicates that for “[s]pecial-use authorizations (such as communications sites, electric transmission lines, pipelines),” existing facilities are not affected but “future developments requiring roads [are] excluded in inventoried roadless areas unless one of the exceptions applies.”¹⁰

iii. **Prohibition on access to Tongass geothermal resources.** Although the Roadless Rule allows access to locatable

⁹ Pub. Law 106-511, 114 Stat. 2365 (Nov. 13, 2000).

¹⁰ 66 Fed. Reg. at 3269 (emphasis added).

minerals, it denies access to new leases for minerals subject to the Mineral Leasing Act of 1920, including geothermal resources, “because of the potentially significant environmental impacts that road construction could cause to inventoried roadless areas.”¹¹ There also is no explanation as to why the access impacts associated with locatable minerals, which are allowed, are different from the access impacts associated with leasable minerals.

iv. Wind Power. There is no exception for wind power or other renewable energy projects – trees cannot be cut in roadless areas to provide sites for wind turbines and roads cannot be constructed to wind power sites to install the turbines.

- **Practical Impacts on Mining Access of Prohibiting Road Construction.** Locatable minerals, like gold, must be provided “reasonable access.” But, the Rule specifically says that “reasonable access” does not mean road access;¹² The Roadless Rule Record of Decision states that “[r]easonable rights of access may include, but are not limited to, road construction, reconstruction, helicopters or other nonmotorized access.”¹³ Experience has shown that “reasonable rights of access” typically does not translate into needed roads.

The same regulations (36 C.F.R. Part 228) that provide for “reasonable access” in roadless areas also provide for reasonable access in Wilderness Areas – there are very few mines in Wilderness Areas.

Special use permits allowing road access in or near wilderness areas are very difficult to obtain. For example, in 1977 the USFS denied a special use permit to U.S. Borax to construct a road for a bulk sample of 5,000 tons of ore at the Quartz Hill Project in a national monument, requiring access to be by helicopter. *Southeast Alaska Conservation Council, Inc. v. Watson*, 697 F.2d 1305 (9th Cir. 1983). As the opinion shows, six years later U.S. Borax still did not have a road permit needed to move that volume of ore.

¹¹ 66 Fed. Reg. at 3256.

¹² 66 Fed. Reg. at 3264

¹³ (FEIS Vol.1, 3-329 to 350). 66 Fed. Reg. at 3264.

Mining exploration generally requires the drilling of multiple exploratory holes to determine the value of the mineral resource. If exploration establishes there are viable deposits, mine development normally requires site clearing for facilities. When a development is in a forest like the Tongass, exploration and development would typically require the substantial cutting of trees. Yet while “reasonable access” is technically permitted in inventoried roadless areas, cutting trees associated with mining exploration and development does not appear to be allowed.

- **Impacts on Timber.** The 2008 Amended Tongass Land Management Plan (TLMP) provided for phased timber development which kept the industry out of medium to high value roadless areas until it had harvested 100 MMBF for two years in a row. The Roadless Rule reduces the ASQ for timber sales from 267MMBF under the 2008 Amended TLMP to 50MMBF. (FEIS at 3-378 to 3-379). Since historically timber offerings run about 2/3 of the ASQ, this reduces timber sale offerings to around 35MMBF.
- **Juneau Access Road.** A Federal Aid Highway project, such as the Juneau Road project, could be built in a Roadless Area if the State can prove a negative, to wit: “a road may be constructed... in an inventoried roadless area...” if “the Secretary of Agriculture determines that a Federal Aid Highway project, authorized by Title 23 of the United States Code, is in the public interest or is consistent with the purpose for which the land was reserved or acquired **and no other reasonable and prudent alternative exists.**” (36 C.F.R. § 294.12 (b)(6)). In the case decided by Judge Sedwick and upheld by the 9th Circuit the State argued that the No Action alternative sufficiently discussed the “improved ferry service” alternative to meet NEPA requirements. Because the ROW for the project is within a Roadless Area the Secretary will now have to find, and the State will now have to show, that no alternative except the Road is “reasonable and prudent.” The former will be particularly hard to prove because Judge Sedwick enjoined the project based upon his finding that improved ferry service was a reasonable alternative in light of the project’s Statement of Purpose and Need.

THE ROADLESS RULE’S VIOLATIONS OF LAW

- The Roadless Rule violates section 101 of the TTRA, 16 U.S.C. § 539d(a), by setting aside so much suitable Tongass forest land from timber harvest that it nullifies the TTRA requirement that Congress seek to meet the market demand for Tongass timber on an annual and decadal basis. Essentially, the Forest Service executed an end-run around the TTRA through intentional action making it impossible for the agency to seek to meet market demand for Tongass timber as directed by Congress.
- The Roadless Rule violates section 1326(a) of ANILCA, 16 U.S.C. §3213(a), by withdrawing more than 5,000 acres of national forest lands within the State of Alaska without complying with ANILCA's statutory requirements. ANILCA section 1326(a) prohibits "executive branch action which withdraws more than five thousand acres . . . of public lands within the State of Alaska . . . except by compliance with this subsection." Compliance with the statute requires that Congress "pass[] a joint resolution of approval within one year after the notice. of such withdrawal [was] submitted to Congress." *Id.* The Roadless Rule withdrew nearly 15 million acres in the aggregate on Alaska's two national forests, the Chugach and the Tongass, when it prohibited road construction, road reconstruction and timber harvesting in Forest Service inventoried roadless areas, and it did so without seeking or obtaining congressional approval as required by the statute.
- The Roadless Rule violates section 708 of ANILCA which specifically found that an earlier inventory of Roadless Areas in National Forests in Alaska was adequate and no further review was required.

Date submitted (Alaskan Standard Time): 10/11/2018 12:00:00 AM

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Last name: Starkey

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Comments:

To: Alaska Roadless Rule

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[Attachment includes contents of letter, and additional information related to THE ROADLESS RULE'S IMPACTS ON RESOURCE DEVELOPMENT]