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Governor Bill Walker
STATE OF ALASKA

June 19, 2018

The Honorable Sonny Perdue
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Perdue,

Thank you for your June 1 call on the State's Roadless Rule Petition and for the proposed process for proceeding on this effort. I am eager to move forward, but recognize that such an effort requires an agreeable framework to advance. As a fellow Governor, I know you have a unique understanding of state needs and state relationships with the federal government. This is a great asset to you as Secretary, and I ask that you consider the following comments from the perspective of both a Governor and a Secretary.

In our call, we discussed the State petition rule process as used in Colorado and Idaho. At the onset of the process, in those states, there was agreement that a rule providing state-specific direction for the conservation and management of inventoried roadless areas was preferred, as opposed to applying the 2001 Roadless Area Conservation Rule. In the case of the State of Alaska, however, the State is not petitioning for an alternative rule to the 2001 Roadless Area Conservation Rule; instead, it requests the U.S. Department of Agriculture (USDA) to commence a rulemaking to consider a rule exempting the Tongass National Forest from the Roadless Rule. While I respect the State Petition Rule process, I do not want any confusion between the Colorado and Idaho processes and this one. The State of Alaska's petition should be processed under the Administrative Procedures Act (APA), which governs rulemakings, not the State Petition's Rule which no longer applies.

Consequently, I would like to offer the following thoughts. I am agreeable to a process that includes some elements of the State Petition process. However, I understand that it is important to USDA that a range of alternatives be developed and analyzed as part of the National Environmental Policy Act (NEPA) portion of the rulemaking. You have suggested that the State consider leading an inclusive process to come up with these alternatives.

The State seeks full exemption of the Roadless Rule and cannot support an alternative that provides Alaskans anything less than restoration of the full exemption to the Roadless Rule that was in place for eight years. The original request in my Petition for an APA rulemaking was to consider an exemption or no exemption, nothing more. Furthermore, Congress has offered extensive guidance in the Alaska National Interest Lands Conservation Act (ANILCA) and Tongass Timber Reform

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Act (ITRA) amendment on management of the Tongass and other federal land in Alaska. In the 2003 Tongass Exemption rulemaking record of decision, the USDA acknowledged that these statutes provide substantial Congressional guidance, and determined that the best way to implement the letter and spirit of these statutes is to fully exempt the Tongass. This interpretation of the applicable federal law is still sound.

While I have concerns about a process that includes multiple alternatives, to include the time and cost this would require, utilizing the Tongass Transition Collaborative (TTC), the follow-on organization to the Tongass Advisory Committee (TAC), could jumpstart a process. While the use of a group was not requested in the Petition, if you insist on such a path forward, I recommend the group be charged with a clear and focused "ask", specifically to produce a limited range of alternatives that could be considered in the Roadless rulemaking process. I would request that the group not be asked to reach consensus or make a recommendation on any specific alternative that they develop, and that they have a hard deadline. Such a group would likely need technical support from the Forest Service for maps and related information on issues that are under discussion, and the Forest Service may decide to assign an ex officio member or a liaison to coordinate the technical needs.

The State is persuaded that the APA process, if it appropriately considers the intent of Congress, is less vulnerable to litigation and delay than a State Petition model. If both parties lean into a typical APA process, the entire effort could be completed in 16 months or less. However, regardless of the chosen process, the State would like to be a Cooperating Agency and I commit to dedicating key staff to a state Tongass Team with the sole task of working on this matter.

Ultimately, I ask that the Forest Service respond to the State's Petition consistent with the spirit of the APA and the specific action requested in the Petition. While the State understands that the USDA cannot enter a rulemaking with a pre-determined outcome, I hope that you understand my goal is for the Forest Service to right a longstanding wrong to help the Tongass realize a full exemption from the Roadless Rule.

The State looks forward to participating in meaningful discussions and will leave it to the rulemaking process and the Forest Service to reach a conclusion as to the appropriate path forward. I look forward to a written response from you identifying parameters for such a process going forward and the timeline on which you anticipate an APA process will begin.

I greatly appreciate your attention to this important matter.

Sincerely,



Bill Walker

Governor

cc: The Honorable Lisa Murkowski, United States Senate