Organized Village of Kake
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Kake, Alaska 99830-0316
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(Federally Recognized Tribal Government serving the Kake, Alaska area)

October 10, 2018

Alaska Roadless Rule
U.S.D.A. Forest Service
Alaska Region
Ecosystem Planning and Budget Staff
P.O. Box 21628
Juneau, AK 99802-1628

RE: Organized Village of Kake Comments for Roadless Rule in Alaska

To Whom it may concern,

The Organized Village of Kake (OVK) is the federally recognized Indian Tribe organized under the authority of the Indian Reogranization Acts of 1934 and 1936. OVK is empowered under its Constitution and By-Laws "to aid needy citizens and protect the general welfare and security of the village." One of OVK's highest priorities is to protect the Village's customary and traditional hunting, fishing and gathering areas and uses within the Keex' Kwaan's traditional territory.[1] These lands include national forest lands on Kuiu, Kupreanof, and portions of Baranof & Admiralty Islands, as well as portions of the mainland. OVK would like to engage with the USFS and State of Alaska as a co-manager/cooperater of resources in the traditional Kake, AK area. Many of OVK's citizens are on the ground utlizing all of the areas around Kake and are the first impacted by decision makers 100 miles away in Juneau and 3,000+ miles away in Washington D.C.

On August 2, 2018, in response to the State of Alaska's petition for a full exemption from the 2001 Roadless Area Conservation Rule (Roadless Rule), the Forest Service signed a Memorandum of Understanding with the State of Alaska to develop an Alaska state-specific roadless rule to address the management of inventoried roadless areas on the Tongass National Forest in Southeast Alaska. The U.S. Department of Agriculure announced on August 30, 2018 its intent to prepare an environmental impact statement (EIS) and public rulemaking process to According to the Notice of Intent, the State of Alaska will participate as a cooperating agency in the preparation of the EIS and "Federally recognized Tribes within the Tongass National Forest have been invited to particpate as a cooperating agency." The notice further gave notice of eleven public meetings planned in Southeast Alaska, incuding Kake on September 26, 2018 (Postponed to Oct. 10, 2018).

Pursuant to Executive Order 13175, Departmental Regulation No. 1350-002, and Forest Service Manual (FSM), the United States Forest Service has adopted official policy regarding American Indian and Alaska Native relations. Pursuant to FSM 1563.02, paragraph 4, agency

[1] Goldschmidt & Haas (1946). A map of the traditional territory of the Kake Tlingit prepared by Goldschmidt and Haas is attached, for your information.

American Indian and Alaska Native relations. Pursuant to FSM 1563.02, paragraph 4, agency officials are to "[s]upport the aspirations of the UN Declaration on the Rights of Indigenous Peoples. "Specifically, this means "that agency officials should consult with indigenous people –the duly elected officials of federally recognized tribes and the traditional holders of Indian religions, knowledge, and practices –early in their decision-making processes. " To further this objective, it is the policy of the Forest Service that "Indian tribes will be provided the opportunity for timely and meaningful government-to-government consultation regarding actions which may have tribal implications. " *See* FSM 1563.03. Such consultation requires the agency to "[c]ollaboratively involve Indian tribes, as early as possible, in the development of regulatory and management policies, resource and land management plans, study plans and actions, and Federal undertakings that may have tribal implications. " *Id.* at 3.b.

The U.S.D.A. and Forest Service entered into the MOU with the State of Alaska and issued the NOI for preparation of an EIS for an Alaska-specific roadless rule without any consulting or collaboration with OVK, in violation of policies under Executive Order 13175, Departmental Regulation No. 1350-002, and the Forest Service Manual. OVK strongly objects to the agency's utter failure to consult with OVK prior to responding to the State of Alaska's petition and initiating preparation of an EIS to support the rulemaking process. The belated invitation to the Tribe to participate as a cooperating agency, and holding a scoping hearing in Kake, cannot compensate for the agency's abject failure to consult and collaborate with the Tribe before proceeding with this Alaska-specific rulemaking –particularly when the proposed rulemaking has such grave and drastic tribal implications for the many tribal citizens who rely on these lands. Likewise, the State of Alaska's establishment the Alaska Roadless Rule Citizen Advisory Committee, which will include at least one member representing a federally recognized Tribe, will not address our concerns; every tribe should be represented on the committee. First, it appears that this committee by design will not assure fair and balanced representation of both development and non-development interests. Secondly, the proposed schedule for the committee providing recommendations to the Governor and State Forester elevates satisfying the State's hurried and arbitrary timeline above the interests of any other stakeholders in this process.

OVK is concerned that the Forest Service will delay revising the Tongass Land Management Plan, (TLMP) and amend it to authorize logging in roadless areas on a project-by-project basis. In such circumstances, it is likely the agency will tier to the analysis contained in any EIS prepared for this rulemaking. Given the agency must consult and coordinate forest planning on the Tongass with Alaska Native Tribes (36 C.F.R. 291.4), we are gravely concerned that the agency's failure to consult and collaborate adequately with the Tribe on this Alaska-specific rule will impair the agency's performance of its responsibility to consult and coordinate with the Tribe regarding forest planning. Both outcomes impair the Tribe's responsibility to "protect the general welfare and security of the village." As OVK listens to the public comment at other community meetings a large majority of the Alaska citizens are wanting the roadless rule intact and not changed; in fact, more protections are being asked for. In this world of changing climate, the State of Alaska should preserve what is left rather than loosening the regulations to have more development on pristine Tongass roadless areas.

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is attached, for your information.

In conclusion, OVK would like to be at the table while decisions are being made on an Alaska-specific Roadless Rule. OVK would like to engage with the USFS and State of Alaska to guide the projects and activity in the traditional Kake area, from increasing some protections in important cultural areas, to lessening regulations in other areas to promote a sustainable economy. All of the aforementioned decisions should be driven by the communities that utilize that area.

Gunalcheesh,

Joel Jackson pres.

Joel Jackson
President

Cc: Petersburg District Ranger David Zimmerman, dlzimmerman@fs.fed.us
Acting Alaska Regional Forester David E. Schmid, dschmid@fs.fed.us
USDA Forest Service Interim Chief Vicki Christiansen, vcchristiansen@fs.fed.us

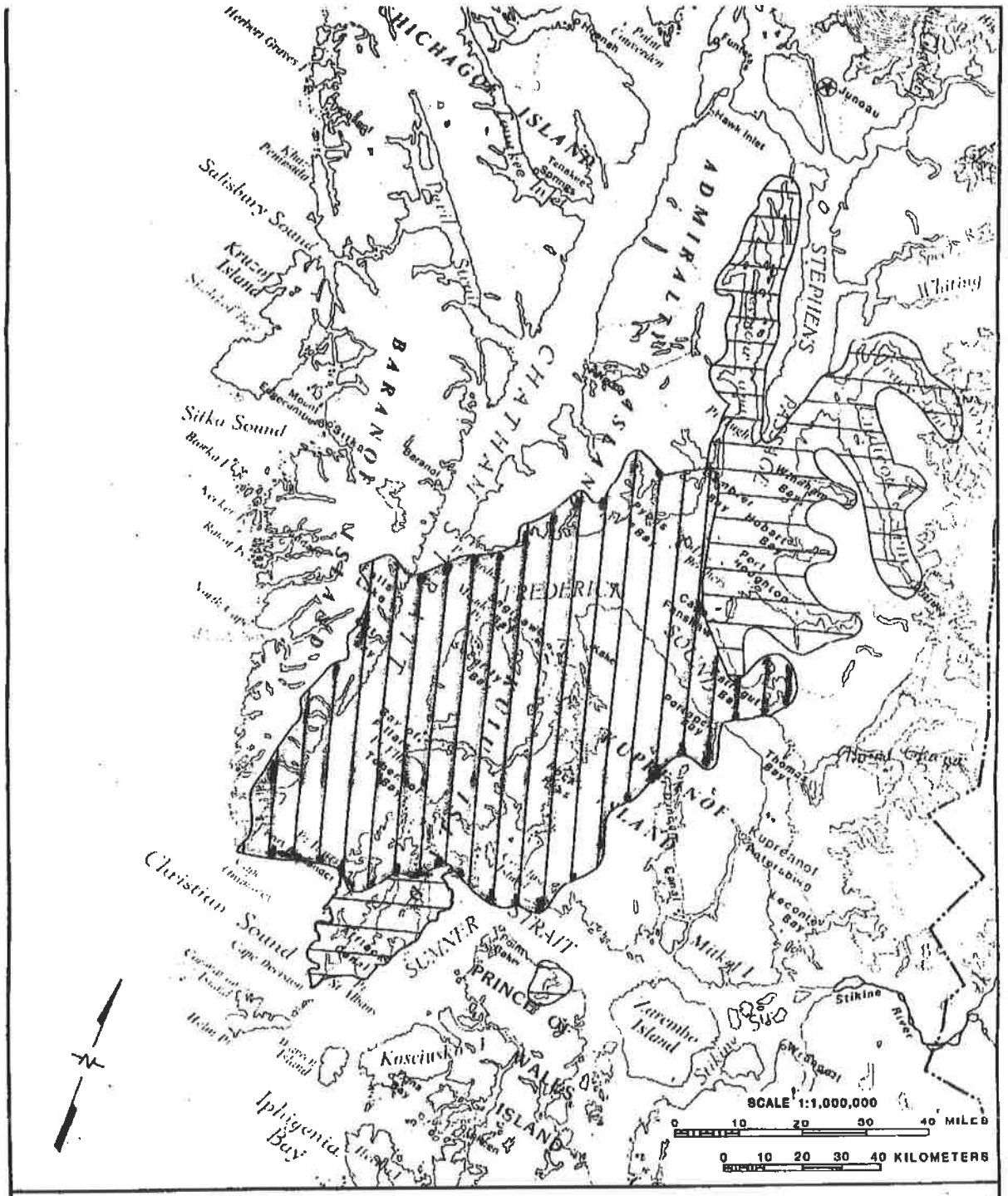
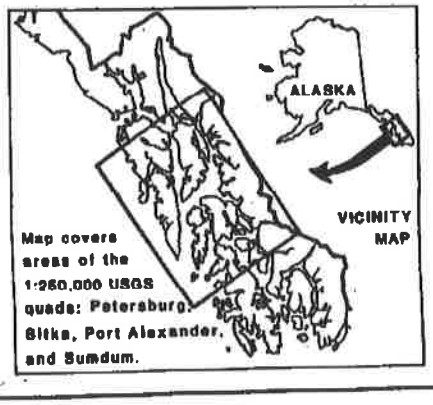


Figure 15. Traditional Territory of the Kake Tlingit, circa 1943.

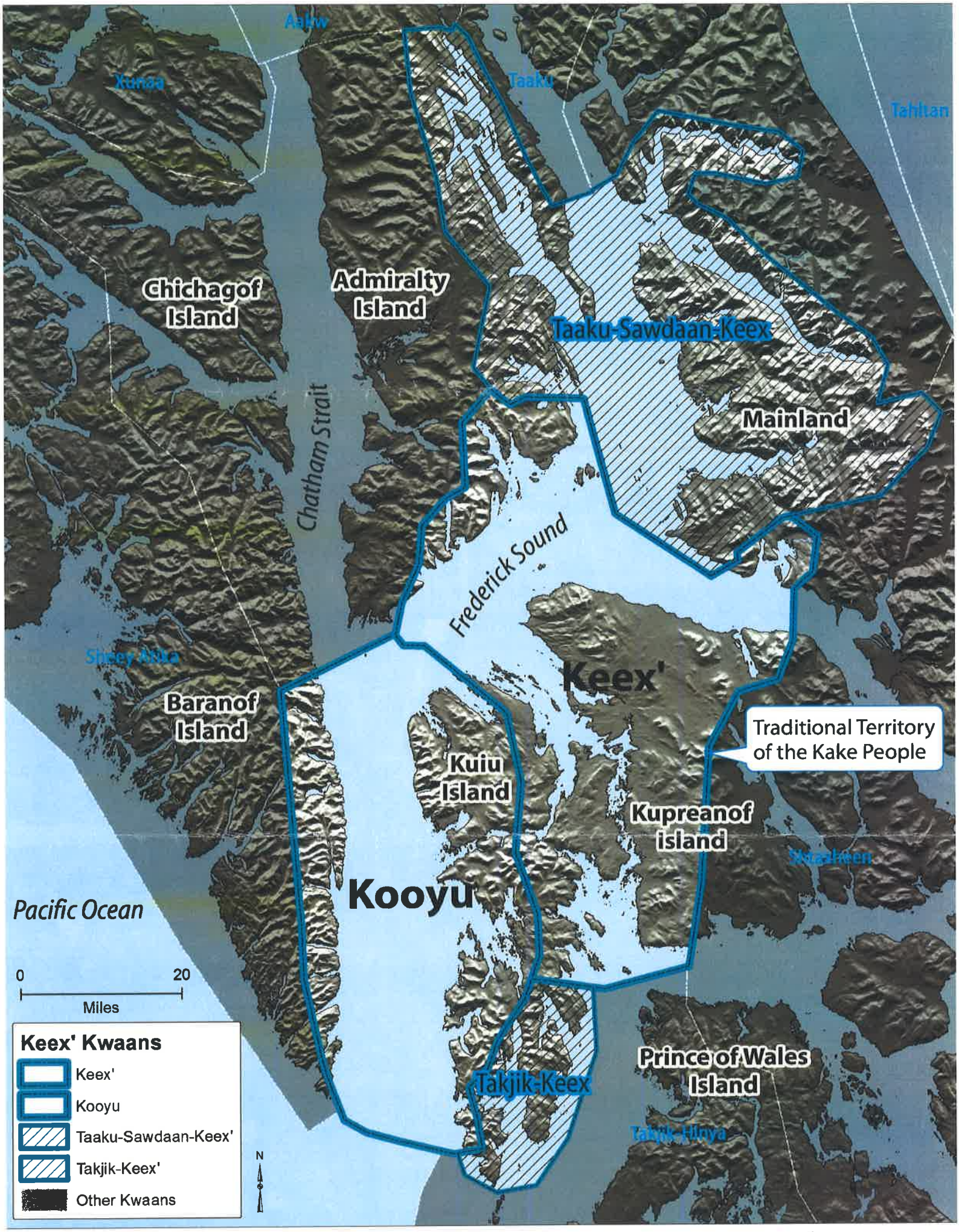


Exclusive Claim Area

Joint Claim Area

SOURCE: Goldschmidt, W.A., and T.H. Hass 1946, Possessory Rights of the Natives of Southeast Alaska and Department of Interior 1944, Hearings on Claims of the Towns of Hydaburg, Klawock, and Kake, Alaska

STATE OF ALASKA
Department of Fish and Game
Subsistence Division


Aakw
Xunaa
Taaku
Tahltan
Chichagof Island
Admiralty Island
Taaku-Sawdaan-Keex
Mainland
Chatham Strait
Frederick Sound
Sheey Atka
Keex'
Baranof Island
Traditional Territory of the Kake People
Kuiu Island
Kupreanof Island
Stikashteen
Kooyu
Pacific Ocean
0
20
Miles
Prince of Wales Island
Takjik-Keex
Takjik-Hinya
N
Keex' Kwaans
Keex'
Kooyu
Taaku-Sawdaan-Keex'
Takjik-Keex'
Other Kwaans

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Resolution No. 2018-24: Continued Tribal Support for Application of National Roadless Rule on the Tongass National Forest

WHEREAS, the Organized Village of Kake (hereinafter OVK) is a federally recognized Indian Tribe under federal law and is empowered under its *Constitution & By-Laws* to execute agreements and contracts with the United States to benefit its members; and,

WHEREAS, OVK is further defined as an Indian Tribe in the Indian Self-determination and Education Assistance Act, PL 93-638 and as such is entitled to contract with the Federal Government for the operation of any federal programs, services, activities or functions serving its member; and,

WHEREAS, our traditional territory includes lands on Kupreanof, Kuiu, Eastern Baranof, and southern Admiralty Islands, and along the mainland, including Port Houghton and as far as Taku River south to Port Houghton; and

WHEREAS, protection of our inherent right to harvest and use our traditional and customary foods requires careful cultural stewardship and protection of our environmental and natural resources; and

WHEREAS, our care of the lands now classified as "inventoried roadless areas" (IRA) and within the Tongass National Forest stretches for millennia; and

WHEREAS, these lands not only provide our people with food, they essentially define who we are and where we come from; and

WHEREAS, inventoried roadless areas protect healthy watersheds that ensure a clean drinking water supply for our Tribal citizens

WHEREAS, inventoried roadless areas contain many sites sacred to Tribal citizens and other Alaska Natives who use these roadless areas for spiritual and religious practices and other customary uses and activities; and

WHEREAS, inventoried roadless areas conserve natural diversity, serve as a bulwark against the spread of invasive species; and

WHEREAS, inventoried roadless areas help ensure the continued protection of indigenous fish and wildlife habitat as it relates to our spiritual, social, nutritional, and ecological values; and

WHEREAS, given Southeast Alaska's cool wet weather, the amount of stored carbon in our intact old-growth forest and soils, the Tongass National Forest represents one of the highest carbon stores in the world and the conservation of intact inventoried roadless areas

on the Tongass is essential for maintaining America's resilience and slowing down climate change throughout the world; and

WHEREAS, the Roadless Rule prevents the disturbance of soils and wasteful construction of damaging roads in inventoried roadless areas; and

WHEREAS, according to the State of Alaska's own economic experts, Tongass timber is uncompetitive because of permanent and fundamental changes in global timber markets, high labor costs, distance from markets, and less expensive substitutes; and

WHEREAS, the Tongass timber industry represents less than one percent of today's jobs and earnings in Southeast Alaska; and

WHEREAS, there are over 5,000 miles of roads already crisscrossing the Tongass National Forest, fragmenting valuable wildlife habitat, threatening salmon by blocking fish passage, and serving as the primary source of sediment into fish streams; and

WHEREAS, spending millions of taxpayer dollars to build roads in inventoried Tongass roadless areas makes no economic sense, particularly given the agency's enormous road maintenance backlog; and

WHEREAS, at hearings held across Southeast Alaska in 2000 on the proposed roadless rule, nearly 60 percent of the Southeast Alaskans who spoke at the hearings supported including the Tongass National Forest in the final roadless rule, and has only grown to upward of 80 percent to date; and

WHEREAS, after the hearing held in Ketchikan during the summer of 2002 on the draft supplemental environmental impact prepared to evaluate recommendations for designating additional inventoried roadless areas on the Tongass as Wilderness, the Ketchikan Daily News reported that roughly 85 percent of the public who testified supported more Wilderness;

WHEREAS, the State of Alaska petitioned the United States Department of Agriculture (USDA) to exempt Tongass inventoried roadless areas from the Roadless Rule on January 19, 2018;

WHEREAS, for all the above reasons, the State's petition severely mischaracterizes the actual extent and impacts of the Roadless Rule on Southeast Alaska; and

WHEREAS, the State's petition ignores the fact that the USDA narrowly tailored the Roadless Rule to limit only two activities in roadless areas, road construction and commercial logging; and

WHEREAS, the State of Alaska's petition ignores the Rule's established exceptions, including Federal Aid Highway projects connecting communities, access to mining claims, and logging incidental to otherwise permitted activities, including utility corridors and hydropower projects; and

WHEREAS, on August 2, 2018, the Forest Service signed a Memorandum of Understanding (MOU) with the State of Alaska to develop an Alaska-specific roadless rule that addresses management of inventoried roadless areas on the Tongass National Forest; and

WHEREAS, three days before the MOU was signed and six months after the State filed its petition, the Forest Service informed OVK by a letter dated 30 July 2018 that the U.S. Secretary of Agriculture Perdue and State of Alaska Governor Walker had reached an agreement to prepare an Alaska-specific rule that would replace the Roadless Rule and "provid[e] for activities needed to further the State of Alaska's economic development while conserving roadless areas for future generations;" and

WHEREAS, the July 30th letter served as an invitation from Acting Regional Forester David E. Schmid to a "Tribal Leader" inviting "government-to-government consultation in advance of a formal public comment period and an opportunity for your Tribe to participate as a cooperating agency" because of our "expertise on subsistence and potential impacts to specific communities within Alaska" during preparation of an environmental impact statement (EIS) to evaluate the proposed Alaska-specific roadless rule for the Tongass National Forest, and other alternative; and.

WHEREAS, the U.S. Department of Agriculture, which includes the Forest Service, published a Notice of Intent (NOI) published on August 30, 2018 announcing its intent to prepare an environmental impact statement (EIS) and initiate a public rulemaking process; and

WHEREAS, the joint announcement issued by the Forest Service when the MOU was signed promises to leave unaffected Tongass lands designated Wilderness by Congress, no mention is made of the fate of nearly 900,000 acres of Legislated LUD II lands designated for perpetual protection from logging and roadbuilding by Congress in the 1990 Tongass Timber Reform Act and the 2014 Sealaska Lands Bill; and

WHEREAS, Kuiu Island and the surrounding smaller islands are important to the residents of Kake, especially the coastal areas near Kake. Areas most often associated with higher values include the Keku Islands, Kadake Bay and Creek, Port Camden, Rocky Pass, and the East Kuiu Roadless Area on the south and east side of Kuiu Island in addition to all of Kupreanof;

WHEREAS, any rule that weakens or eliminates Roadless Rule protections within our traditional territory in what became Inventoried Roadless Areas of the Tongass National Forest will substantially affect the existing 2016 Tongass Land Management Plan Amendment; and

WHEREAS, the 2016 Plan Amendment excluded all roadless areas from the available timber base, the agency's failure to consult and coordinate forest planning with OVK will impair the Tribe's ability to fulfill its responsibility to "protect the general welfare and security" of Tribal citizens; and.

WHEREAS, pursuant to Executive Order 13175, Departmental Regulation No. 1350-002, and Forest Service Manual (FSM), the United States Forest Service adopted an official policy (FSM 1563.02, paragraph 4) to "[s]upport the aspirations of the UN Declaration on the Rights of Indigenous Peoples." Specifically, this means "that agency officials should consult with indigenous people – the duly elected officials of federally recognized tribes and the traditional holders of Indian religions, knowledge, and practices – early in their decision-making processes;" and

WHEREAS, as provided in FSM 1563.03, it is the policy of the Forest Service that "Indian tribes will be provided the opportunity for timely and meaningful government-to-government consultation regarding actions which may have tribal implications" and such consultation requires the agency to "[c]ollaboratively involve Indian tribes, as early as possible, in the development of regulatory and management policies, resource and land management plans, study plans and actions, and Federal undertakings that may have tribal implications;" and

WHEREAS, the USDA and Forest Service entered into an MOU with the State of Alaska and issued the NOI for preparation of an EIS for an Alaska-specific roadless rule without prior consultation or collaboration with OVK; and

WHEREAS, the Forest Service has not explained adequately why it failed to fulfill its responsibilities to consult with the Tribe; and

WHEREAS, the State of Alaska continues to resist all efforts to develop and work in a government to government relationship with the Tribes and never consulted with the OVS before filing its petition with the USDA; and

WHEREAS, Governor Walker issued Administrative Order 299, establishing the Alaska Roadless Rule Citizen Advisory Committee (CAC) on September 5, 2018; and

WHEREAS, Alaska Governor Walker appointed 13 Alaskans to the CAC, including the Alaska State Forester, to advise the State of Alaska on the future management of inventoried roadless area in the Tongass National Forest; and

WHEREAS, the Governor appointed a single Alaska Native to represent all Tribal perspectives for the seventeen federally-recognized Tribes of Alaska Natives in Southeast Alaska on the CAC, a gigantic and unrealistic burden for one person; and

WHEREAS, the only other Alaska Native on the CAC represents Sealaska Corporation; and

WHEREAS, Sealaska is an Alaska Native for-profit Corporation established under the Alaska Native Claims Settlement Act -- not a Tribe; and

THEREFORE BE IT RESOLVED, OVK strongly supports lasting protection for all inventoried roadless areas within OVK's traditional territory now within the Tongass National Forest as provided for in the Roadless Rule; and

THEREFORE BE IT FURTHER RESOLVED, given the serious and long lasting Tribal implications from any reduction in current Roadless Rule protections, we strongly object to the Forest Service's failure to consult with OVK before deciding to grant the State of Alaska's petition and begin a review under the National Environmental Policy Act and public rulemaking process;

THEREFORE BE IT FURTHER RESOLVED, the only changes to the Roadless Rule that OVK can support is an update to the inventory used to define inventoried roadless areas subject to the Rule on the Tongass to include approximately 350,000 acres excluded from the 1995 inventory used for developing the 2001 Roadless Rule because the agency assumed approved logging development would occur – when it did not;

BE IT FINALLY RESOLVED, the Forest Service must also initiate consultation, coordination, and accommodation of Tribal interests in any changes to TLMP connected with this rulemaking process.

CERTIFICATION

This resolution was duly adopted at an IRA Council meeting held this 10 day of October, 2018 by a quorum of 7 (includes president as non-voting chairperson except in case of tie vote) with 7 yes votes, _____ no votes, and _____ abstaining.

Joel Jackson pres. — Joel Jackson, President

Patti Handy vice — Attested by