



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

JUN 5 2019

Mr. Randy Johnson  
Owner  
Tyler Rental  
5216 Borch Street  
Ketchikan, Alaska 99901

Dear Mr. Johnson:

Thank you for your letter of March 18, 2019, in support of exempting the Tongass National Forest in Alaska from the National 2001 Roadless Area Conservation Rule. I apologize for the delayed response.

I am committed to meeting the economic, social, and natural resource needs of Alaskans and all Americans. Throughout its work on the Alaska Roadless Rule, the U.S. Department of Agriculture's Forest Service will uphold its mission to sustain the health, diversity, and productivity of our Nation's forests and grasslands in order to meet the needs of future and present generations.

We look forward to working with you in the future to support a healthy timber industry and robust economy that suits the unique conditions in Southeast Alaska.

Thank you for your interest in the management of the Tongass National Forest. I appreciate your participation in this process.

Sincerely,

A handwritten signature in blue ink that reads "Sonny Perdue". The signature is fluid and cursive, written over a light-colored rectangular background.

Sonny Perdue  
Secretary

# TYLER RENTAL

March 18, 2019

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

Good Morning,

In the near future, you will be deciding the preferred alternative for inclusion in the Rulemaking's Draft Environmental Impact Statement. Along with 6 recent Alaska State Governors, I am respectfully asking you to consider a total exemption of the Tongass National Forest from the Roadless Rule as the preferred alternative.

As a business owner in Southeast Alaska (over 30 years) and who currently has over 77 employees who live and work in Southeast Alaska, I have witnessed the steady decline in our Resource based economy and the negative affect that has had on our businesses and fellow residents. Now, with the State of Alaska in the midst of a fiscal crisis, these resource related opportunities cannot afford to continue to diminish. We are seeing increased outmigration and employment has shifted to seasonal. We are losing our Alaskan year around jobs and economy to summer temporary jobs. This is very destructive to the health and welfare of our Southeast Alaska communities. We need to bring back more stable and predictable resource-based industries that provide living wage year around employment and promote healthy communities which is not practical or possible under the restrictive conditions of the Roadless rule. Once again, we are addressing the 2001 Roadless Rule and the thoughtless consequences that this brings to the people living in Southeast Alaska. This Roadless Rule is detrimental to our local communities. It obstructs resource development, whether it be underground, in the water, or in the air. The shortsightedness of this rule is astonishing since the Tongass National Forest is over 17 million acres and we need to have access to some of those areas in order to grow as a State.

This Roadless rule failed to take the following items into consideration when it was implemented:

- 1. 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

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**Ketchikan, AK**  
5216 Borch Street  
PO Box 8158  
Ketchikan, AK 99901  
Office: 907-225-6069  
Fax: 907-225-6118

**Craig, AK**  
400 Port Bagial Blvd  
PO Box 1172  
Craig, AK 99921  
Office: 907-826-2924  
Fax: 907-826-2956

**Juneau, AK**  
5295 Glacier Hwy  
Juneau, AK 99801  
Office: 907-780-2210  
Fax: 907-780-2213

**Chehalis, WA**  
153 Hamilton Rd North  
Chehalis, WA 98532  
Office: 360-748-8109  
Fax: 360-748-8113

lines, pipelines),” existing facilities are not affected but “future developments requiring roads [are] excluded in inventoried roadless areas unless one of the exceptions applies.”<sup>1</sup>

2. **Prohibition on access to Tongass geothermal resources.** Although the Roadless Rule allows access to locatable 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.”<sup>2</sup> 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.
3. **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.
4. **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;<sup>3</sup> 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.”<sup>4</sup> 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.

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.

- a. **Impacts on Timber.** The 2008 Amended Tongass Land Management Plan (TLMF) provided for phased timber development which kept the industry out of

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<sup>1</sup> 66 Fed. Reg. at 3269 (emphasis added).

<sup>2</sup> 66 Fed. Reg. at 3256.

<sup>3</sup> 66 Fed. Reg. at 3264

<sup>4</sup> (FEIS Vol.1, 3-329 to 350). 66 Fed. Reg. at 3264.

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

This Roadless rule also failed to consider the Laws it was violating when it was implemented:

- 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.

As you can tell, 2001 Roadless Rule violated Alaska National Interest Lands Conservation Act *multiple times* and in doing so, it has impacted our communities and our families. Please make the Tongass National Forest exemption permanent and give us back the ability to work towards our future.

Thank you for your time.

Sincerely



Randy Johnson  
Owner

**TYLER RENTAL**

5216 Borch Street North  
PO Box 8158  
Ketchikan, AK 99901



THE HONORABLE SONNY PERDUE  
SECRETARY OF AGRICULTURE  
U.S. DEPARTMENT OF AGRICULTURE  
1400 INDEPENDENCE AVE., S.W.  
WASHINGTON DC

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