

Hoonah Indian Association, Organized Village of Kasaan, Organized Village of Kake, Organized Village of Saxman, Ketchikan Indian Community, Klawock Cooperative Association, Central Council of Tlingit and Haida Indian Tribes of Alaska, Craig Tribal Association, Skagway Traditional Council

April 27, 2020

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

Dear Honorable Secretary Perdue,

Since time immemorial, we, the indigenous peoples of Southeast Alaska, have enjoyed an intimate connection with *Haa Aani* (Our Land). The land and waters of our homelands are essential to, and inseparable from, our culture, community vibrancy, rural subsistence lifestyles, and economic opportunity. The tribes signed below have our roots in the Tongass National Forest and have defended the integrity of our indigenous habitat from the destructive forces of colonization since the arrival of the "dleit kaa" to our lands several hundred years ago.

The United States Forest Service's Draft Tongass Rule proposed granting the State of Alaska's petition for an Alaskan exemption to the Roadless Area Conservation Rule. The Forest Service appears to be advancing the Final Tongass Roadless Rule review even though a state of national emergency has been declared. President Trump issued an executive order declaring a state of national emergency on March 13, 2020, in response to the COVID-19 outbreak in the United States. Since then, numerous U.S. governmental organizations, including the U.S. Supreme Court and the Internal Revenue Service, have announced extensions of normal filing deadlines because of ongoing public health concerns relating to COVID-19. Additionally, in Alaska, Governor Dunleavy has instituted numerous restrictions limiting the public's ability to gather, work and travel. Communities are using all existing resources to prepare and address this health crisis. All of these restrictions make it extremely challenging, if not impossible, to engage in the federal rulemaking.

To our knowledge, the U.S. Forest Service has not issued guidance regarding extensions of time on proposed national forest management plans and projects. The "Coronavirus Frequently Asked Questions" document on the Forest Service website (as of March 23) indicates that various management activities such as monitoring and grazing allotment inspections may be delayed, but it does not address the question of extending deadlines or taking other steps to accommodate the Tribes' needs for additional time to participate in normal planning processes.

We are aware that some individual national forests are extending or deferring comment or objection periods. For example, on March 18 the Nantahala-Pisgah National Forest announced that it is extending the public comment period on its draft forest plan, explaining that "[w]e recognize that there is a need to extend the comment period to accommodate meaningful public involvement." Similarly, on March 20, the supervisor of the Daniel Boone National Forest cancelled the objection process for the South Red Bird Wildlife Habitat Enhancement Project, stating, "The public and our interested parties are currently overwhelmed with life-changing circumstances as public health officials seek to address the Coronavirus (COVID-19). This event is affecting our interested stakeholders as well as our Forest Service staff as we seek to continue delivery of public services."

On or around March 7, 2020, the Forest Service sent to tribal cooperators a pre-public draft final environmental impact statement and requested feedback by March 21, 2020 – all in the midst of a national pandemic emergency. Also, recently, Southeast Tribes are being asked to participate in “Virtual Government to Government Consultation.” These are unconscionable actions.

Southeast Tribes involved in Forest Service planning processes are overwhelmed by the COVID-19 crisis and are unable to devote the time and attention to participate meaningfully. Tribes are focused on keeping the community and families healthy and safe, while complying with the extraordinary measures that are being implemented to contain and limit the spread of the disease. COVID-19 has disrupted normal working, schooling, and living conditions, impairing the ability of many parents, elders, and members of the general public to go about their daily routines and conduct regular business, much less weigh in on Forest Service actions that affect us.

In-person meetings that are essential for high-quality Tribal participation in planning processes cannot take place, as we must maintain the recommended or mandated health standards and “social distancing” required to protect vulnerable populations. Virtual meetings and other online tools cannot meet the requirements of a robust discussion that would inform a Tribal position on the documents. In our Tribal communities, we simply do not have the internet resources to enable participation, such as virtual meetings for review of large documents. This problem is compounded by the closures of Forest Service offices and local libraries, preventing access to online or hard copies of planning documents by some members of the public. In addition, digital platforms and networks are being overwhelmed with increased demand at this time, which will further impede connection and participation.

We request that the Forest Service delay tribal consultation, subsistence hearings and cooperating agency meetings until after the threat of COVID-19 transmission has passed and it is safe to hold in-person meetings in Southeast Alaska. The virtual meetings the Forest Service has proposed do not satisfy the Forest Service’s legal obligations or demonstrate a genuine effort to engage in appropriate consultation. For purposes of subsistence hearings, the Alaska National Interest Lands Conservation Act requires that hearings be held “in the vicinity of the area involved[.]”¹ This requirement is important because local, in-person hearings provide the Tribes with subsistence livelihoods at stake the best opportunity to participate in the decision-making process. Virtual meetings are not sufficient under the statutory text.

Similarly, the Forest Service Handbook emphasizes that government-to-government consultation should be held in person because this provides the best opportunity for meaningful engagement with the Tribes affected by government actions: “Real-time, in-person dialogue is the preferred method”² Although the Handbook recognizes that other forms of consultation may sometimes be acceptable, the Handbook states that “face-to-face consultation is always preferred.”³ It further provides that when Tribes request in person consultation and the Forest Service offers other types of meetings or conferences as a substitute, these other forms of conference “may not be considered consultation sessions.”⁴ Consultation occurs only when both the Tribes and the Forest Service agree that consultation is occurring, and paper and electronic dialogue may only serve as consultation “if agreed by the Agency and the Indian tribe(s).”⁵

¹ 16 U.S.C. § 3120(a)(2).

² Forest Service Handbook 1509.13, ch. 10, *Consultation with Indian Tribes and Alaska Native Corporations* (2016) at 11.3(2).

³ *Id.*

⁴ *Id.* at 11.3(2)(a).

⁵ *Id.* at 11.3(2)(b).

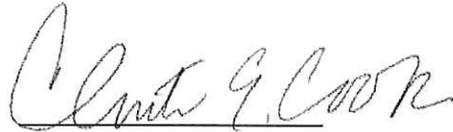
The undersigned Tribes request in-person consultations. Virtual consultations are not a substitute for in-person meetings. Many tribal communities have limited Internet bandwidth to participate in virtual meetings. Further, in some communities, participating in virtual meetings requires community members to gather in a single location where reliable internet is available. This is not possible currently. For all of these reasons, we request that you provide in-person consultation and hearings with the undersigned Tribes, after it is safe to do so, and delay the issuance of the final EIS for the Alaska Roadless Rulemaking process until after holding those consultations and hearings.

Consistent with the USDA Forest Service's mission to care for our national forests *and serve people*, we seek your understanding during this trying time and request that you suspend the roadless review process until the national emergency is concluded. Tribes and Tribal cooperators ask for ample time after the national emergency has been lifted to meaningfully fulfill our role in government to government consultation and as cooperators to provide review of the pre-public rule documents at that time. Such action would be consistent with the President's emergency declaration, improve public engagement, and build good will with many stakeholders.

Sincerely,



Robert Starbard, Tribal Administrator / CEO
Hoonah Indian Association



Clinton E Cook Sr, President
Craig Tribal Association



Lee Wallace, President, Organized Village of Saxman



Joel Jackson, President
Organized Village of Kake



Ronald Leighton, Tribal President
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