



**Resolution Regarding the Roadless Rule**

March 29, 2011

WHEREAS, The Clinton Administration changed its mind two times during rulemaking regarding whether or not the nationwide Roadless Rule should apply to the Tongass National Forest before making a third change by extending the Rule to the Tongass National Forest on January 12, 2001; and

WHEREAS, in 2001 the State of Alaska litigated the Final Roadless Rule on the ground, among others, that it violated § 1326 (a), the "no more" clause of the Alaska National Interest Lands Conservation Act (ANILCA); and

WHEREAS, in 2003 the Federal Government settled the State's lawsuit by promulgating an interim rule that exempted the Tongass National Forest from the Roadless Rule; and

WHEREAS, The Tongass remained exempt under the Bush Administration's "State Petition Rule" promulgated in 2005; and

WHEREAS, The Tongass remained exempt under the interim rule even after the Ninth Circuit Court of Appeals struck down the State Petition Rule in 2009; and

WHEREAS, on March 4, 2011 the District Court for the District of Alaska determined that the interim rule exempting the Tongass National Forest from the Roadless Rule had been promulgated in an arbitrary and capricious manner, and thus vacated the exemption and reinstated application of the Clinton Roadless Rule to the Tongass National Forest; and

WHEREAS, the Clinton Roadless Rule states in pertinent part: "(a) A road may not be constructed or reconstructed in inventoried Roadless areas of the National Forest System, except as provided in paragraph (b) of this section; and

WHEREAS, the exceptions in subsection (b) allow a road: 1) in the case of an imminent flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property; 2) to conduct a response action under CERCLA; 3) because it is needed pursuant to a reserved or outstanding rights, or as provided for by statute or treaty; 4) because realignment is needed to prevent irreparable resource damage; 5) because road reconstruction is needed for safety on a hazardous road; 6) the Secretary determines that a Title 23, Federal Aid Highway project is in the public interest; 7) because it "is needed in conjunction with the continuation, extension, or renewal of a mineral lease on lands that are under lease by the Secretary of Interior as of January 12, 2001 or for a new lease issued immediately upon expiration of an existing lease."; and

WHEREAS, in enjoining application of the Clinton Roadless Rule to all of the United States, except for the States within the Ninth Circuit, Judge Brimmer found: "[U]ses in inventoried Roadless Areas are even more restrictive than those permitted in congressionally designated

wilderness areas. For example, a road could be constructed in a wilderness area to 'control fire, insects, and diseases,' whereas a road could be constructed in a roadless area in the 'case of an imminent flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property.'"<sup>1</sup>; and

WHEREAS, the Roadless Rule will adversely impact potential new mining activities on the Tongass National Forest by prohibiting development activities associated with prospecting and mine construction in areas within Roadless Areas; and

WHEREAS, the Roadless Rule will preclude new hydro-electric, geothermal and other renewable energy projects in Roadless Areas on the Tongass; and

WHEREAS, the Roadless Rule will limit achievement of National Security Objectives by limiting potential renewable energy projects on Tongass National Forest Roadless Areas; and

WHEREAS, the Roadless Rule will reduce the suitable timber land base of the Tongass from 676,000 acres and thereby further reduce the allowable timber harvest authorized by the 2008 Amended Tongass Land Management Plan (TLMP) to a timber industry already devastated by the continual erosion of the suitable land base since passage of ANILCA, the Tongass Timber Reform Act of 1990, other land withdrawals, and endless litigation; and

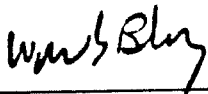
WHEREAS, the Roadless Rule will restrict opportunities for new resource based jobs in the Tongass National Forest.

**NOW, THEREFORE BE IT RESOLVED**, that the Alaska Miners Association opposes the re-instatement of the 2001 Roadless Rule in the Tongass National Forest; and

**BE IT FURTHER RESOLVED**, that the Alaska Miners Association supports the development of resources in Southeast Alaska that will enhance our communities and Tribal Governments through the development of jobs, economic activity, and energy security for all Alaska and North America; and

**BE IT FURTHER RESOLVED**, that the Alaska Miners Association supports the appeal of the District Court's decision to the Ninth Circuit and urges the Parnell Administration to file a new lawsuit against the 2001 Roadless Rule on the ground that its application to the Tongass National Forest was arbitrary and capricious and in violation of ANILCA; and

**BE IT FURTHER RESOLVED**, that the Alaska Miners Association urges the Congressional Delegation to urge the Obama Administration to finalize the 2003 interim rule exempting the Tongass National Forest from the Clinton Roadless Rule.

  
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Bill Brophy, President

March 29, 2011

<sup>1</sup> *Wyoming v. USDA*, 570 F.Supp.2d 1309 at 1349-1350 (D. Wyo.) This case is on appeal to the Tenth Circuit.