

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10398 HOUSE RESOURCES

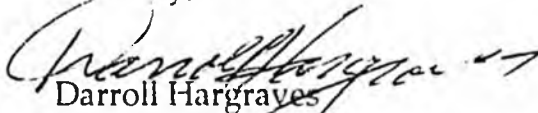
addition of a fifth-year requirement for teacher training by the University of Alaska would increase the quality of teachers in elementary and multiple subject teaching to the point that it would justify worsening our already critical teacher shortage. Again, we need to make our four-year program even more effective

As much as we support advanced study for teachers, we must deal with the fact that thousands of Alaska's school children need teachers now. We need to face this crisis before it becomes a catastrophe. Time is the essence.

As you know, these are difficult times for public schools in Alaska. Teacher supply is one of the many important issues we face, and it is a top priority for us. I'm sure we agree that a good supply of well-trained, qualified teachers is vital to the success of our students.

I believe the university provides the major vestige of hope that qualified teachers will be available for our schools. That's why I urge you to rethink the fifth-year requirement and return to an even better four-year program with adequate funding to ensure its success. Let's give back the attention and funding in today's dollars that the teacher-training program enjoyed two decades ago.

Sincerely,


Darroll Hargraves
Executive Director

c.c. Lee Gorsuch, Chancellor
Marshall Lind, Chancellor
John Pugh, Chancellor



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Alaska Department of Law

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Alaska Department of Law / Natural Resources

Updated December 15, 2000

Significant Natural Resources Cases

The following is a summary of many of the active subsistence, statehood defense, and other significant lawsuits being handled by the Natural Resources Section of the Alaska Department of Law.

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1. Katie John v. U.S.
2. Stevens Village v. McVee and Rosier
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7. Leuthe v. State of Alaska
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9. Greenpeace v. Alaska Dep't of Natural Resources
10. Greenpeace v. Alaska Dep't of Natural Resources
11. Cook Inlet Keepers v. State
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13. Crivello v. State, CFEC
14. Kenai Peninsula Borough v. State, Dep't of Natural Resources
15. Alaska Trademark Shellfish, Zauqg, et al. v. ADF&G, et al.
16. Kenai Peninsula Borough v. State, DNR
17. The Association of Village Council Presidents, Inc., et al. v. State
18. Alaska Center for the Environment, et al. v. State of Alaska, DGC
19. Fallis, Walker v. ADF&G
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21. Kenneth H. Manning v. State
22. Alaska Wildlife Alliance, et al. v. Alaska Board of Game, et al.
23. Fish and Wildlife Enforcement Actions

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1. In Re: Native Allotment Application of Donna Huff
2. In re: Native Allotment Application of Alfred Bayou

3. FPA Enforcement Actions

FEDERAL COURT CASES

1. Katie John v. U.S. (Ninth Cir. No. 00-35121; our file no. 221-00-0474; state's attorney: Joanne Grace; plaintiffs' attorney: Heather Kendall of NARF; U.S.' attorneys: Dean Dunsmore and Elizabeth Ann Peterson). This is one of the jointly managed ANILCA subsistence cases. These cases had been stayed until October 1, 1999. The plaintiffs alleged that ANILCA requires the federal government to manage fisheries in navigable waters of Alaska, and accordingly, that the Federal Subsistence Board should take over management of the Copper River and authorize a subsistence fishery at Bazulnetas.

Both the District Court and the Ninth Circuit Court of Appeals agreed in part and held that the term "public lands" includes navigable waters in which the United States has reserved water rights. (Under the reserved water rights doctrine, when the United States withdraws land and reserves it for a federal purpose -- for example, a national park or wildlife refuge -- it also reserves by implication water rights necessary to fulfill the purposes of the reservation). The court remanded the case to the Departments of Interior and Agriculture to identify those waters.

In January 1999, the Departments of Interior and Agriculture published final regulations to assume management of subsistence fisheries. The regulations cover subsistence activities on all waters within or adjacent to the exterior boundaries of 34 identified federal areas, including national parks, refuges, preserves, monuments, wild and scenic rivers, and national forests (excluding the marine

waters of the Tongass and Chugach National Forests). They also extend the Federal Subsistence Board's management to some federal lands selected under the Alaska Native Claims Settlement Act or the Alaska Statehood Act until conveyed. In addition, the rules purport to confirm the Secretaries' authority to restrict or eliminate hunting, fishing, and trapping on state and private lands when these activities interfere with the subsistence priority on the public lands. The rules became final in October 1999, and the U.S. District Court entered final judgment in the case on January 7, 2000, affirming its earlier orders and dismissing any remaining claims without prejudice. The state filed an appeal to the Ninth Circuit Court of Appeals on January 26, 2000. The court agreed to hear the appeal en banc. Oral argument will be December 20, 2000.

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2. Stevens Village v. McVee and Rosier (United States District Court No. A92-567-CV (HRH) (Judge Holland); our file no. 221-93-0123; state's attorney: Joanne Grace; plaintiffs' attorney: Carol Daniel; U.S.' attorneys: Bruce Landon and Dean Dunsmore). This is one of the jointly managed ANILCA cases.

In 1992, plaintiffs filed suit against the Federal Subsistence Board (FSB) and ADF&G, alleging they are being denied their federal subsistence priority within Game Management Unit 25(D) West. Following denial of a TRO, the federal defendants moved for a voluntary remand to the FSB. On remand, the FSB changed its regulations to accommodate plaintiffs' requests for: an extension of

the season; provisions allowing a permittee to designate another person to hunt on his or her behalf; and closing federal public lands in GMU 25D West to hunting by non-local residents. The parties filed cross-motions for summary judgment on the only remaining issue: whether the FSB has authority to regulate hunting on state-managed lands adjacent to federal lands in GMU 25D West to protect subsistence uses on "public lands" in GMU 25D West. Judge Holland has characterized this as the "where II" issue.

Judge Holland tentatively indicated in the stay order that the FSB lacks authority off "public lands" because the Secretaries of Interior and Agriculture did not grant such authority in the regulations establishing the FSB. Judge Holland expressed no opinion on the question of whether the Secretaries themselves have that authority, but indicated that he would entertain further briefing on the issue. Meanwhile, the Stevens Village plaintiffs and others submitted a rulemaking petition to the Secretaries of Agriculture and Interior, requesting that they extend the FSB's authority to state and private lands. The parties agreed to stay the case while the Secretaries considered the petition.

In January 1999, the Departments of Interior and Agriculture published final regulations that purport to confirm the Secretaries' authority to restrict or eliminate hunting, fishing, and trapping on state and private lands when these activities interfere with the subsistence priority on the public lands. The regulations became effective on October 1, 1999. To date, the secretaries have not attempted to restrict or eliminate moose hunting on state or private lands in GMU 25D West.

On December 16, 1999, the parties stipulated to dismissal of the case without prejudice. An order approving the stipulation was entered on January 3, 2000. The parties are now litigating attorney

fees and costs.

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3. Native Village of Quinhagak v. United States (United States District Court No. A93-023-CV (HRH) (Judge Holland); Ninth Cir. No. 93-35496; our file no. 221-93-0041; state's attorney: Joanne Grace; plaintiffs' attorneys: Carol Daniel, John Starkey (AVCP); U.S.' Attorney: Dean Dunsmore). This is one of the jointly managed ANILCA cases.

The plaintiffs (the villages of Quinhagak and Goodnews Bay, the AVCP, and individual Yup'ik Natives) seek declaratory and injunctive relief allowing the harvest of rainbow trout from the Kanektok and Goodnews Rivers for subsistence. The plaintiffs claim that navigable rivers are "public lands" for purposes of ANILCA, that the state has no subsistence jurisdiction over the waters of the Kanektok and Goodnews River systems, and that the federal government has the authority to regulate non-public lands and waters owned by the state when necessary to provide for subsistence uses. In September of 1994, the Ninth Circuit reversed Judge Holland's order denying the plaintiffs' motion for preliminary injunction. On remand, the court entered an order prohibiting the state and federal defendants from enforcing regulatory prohibitions on the subsistence harvest of rainbow trout while the case is pending. The plaintiffs were awarded partial attorneys fees incurred in connection with the motion for preliminary injunction and appeal.

The regulations extending the federal subsistence program to

certain navigable waters became final in October 1999. The federal district court entered final judgment in the case on January 10, 2000, affirming its earlier orders and dismissing the remaining claims without prejudice. The parties now are litigating the issue of attorneys fees.

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4. Peratovich v. United States (United States District Court No. A92-734-CV (HRH) (Judge Holland); our file no. 221-93-0340; state's attorney: Joanne Grace; plaintiffs' attorneys: Thomas Luebben and Richard Young of Albuquerque, New Mexico; U.S.' attorney: Dean Dunsmore). This is one of the jointly managed ANILCA cases. The case has been stayed while the United States Supreme Court hears Alaska v. United States, Orig. 128, which involves an issue similar to that raised in Peratovich.

In an amended complaint filed on October 24, 1996, plaintiffs seek declaratory and injunctive relief requiring the Federal Subsistence Board (FSB) to issue a collective permit allowing the harvest of up to 366,000 pounds of herring roe on kelp (1000 pounds per individual for 366 applicants) from the marine waters of southeast Alaska as "customary trade." (The state "customary trade" regulation allows sale of up to 32 pounds of herring roe on kelp by an individual, and up to 158 pounds per household.) The FSB has taken the position that it lacks jurisdiction over the navigable waters where the harvest would occur.

Plaintiffs contend primarily that (1) the United States owns the

submerged lands within the Tongass National Forest as a result of a prestatehood withdrawal, and (2) that the waters in question are "public lands" within the meaning of ANILCA, on a reserved water rights theory.

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5. Kluti Kaah v. Alaska (United States District Court No. A90-004-CV (HRH) (Judge Holland); our file no. 221-90-0433; state's attorney: Joanne Grace; plaintiff's attorneys: Heather Kendall of the Native American Rights Fund (NARF) and Mike Walleri of Tanana Chiefs' Conference (TCC); U.S.' attorney: Dean Dunsmore). This is one of the jointly managed ANILCA cases.

Plaintiffs and intervenors initially challenged state and federal regulations governing subsistence hunting of caribou in the Copper River basin. Plaintiffs claimed, among other things, that the federal regulations impermissibly fail to cover caribou located on state lands. This case has been consolidated with Arctic Regional Council v. United States. Kluti-Kaah filed an amended complaint which does not include any claims against the state. The court granted an unopposed motion by the federal government to dismiss TCC's claims against it, and the court dismissed all of TCC's claims against the state following an unopposed motion by the state.

On December 16, 1999, the parties stipulated to dismissal of the case without prejudice. An order approving the stipulation was entered on January 3, 2000. That parties are now litigating attorney fees.

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6. State v. Harrison (United States District Court No. A94-464-CV (HRH) (Judge Holland); our file no. 221-95-0270; state's attorneys: John Baker and Robert Nauheim; private defendants' attorney: none, two successive attorneys withdrew). This action involves the state's assertion of a right-of-way for the Chickaloon River Road across the Native allotment owned by members of the Harrison family, who claim that the allotment constitutes sovereign Indian country. The Harrisons have relied on Chickaloon's inclusion on the 1993 BIA list of tribes to claim immunity from Alaska law, including charges of obstructing lawful public use of the Chickaloon River Road. The United States moved to dismiss the state's original complaint, initially arguing that the Quiet Title Act, 28 U.S.C. § 2409a, forbids any judicial inquiry into the validity of the state's right-of-way to the extent that "trust or restricted Indian land" is implicated. We amended our complaint to seek a title adjudication under 25 U.S.C. § 357, the federal condemnation statute. The Harrisons cross-claimed, alleging that the United States breached its trust obligation to the Harrisons as Natives by not defending the Harrisons' alleged ownership of the road.

In February 1997, Judge Holland dismissed the Harrisons' cross-claims against the United States and in May 1998, the court dismissed the Harrisons' counterclaims against the state. In October 1998, Judge Holland issued an order granting the state partial summary judgment on the state's claim of title to the road. On July 23, 1999, Judge Holland granted the state's further motion

for summary judgment, ruling that only a 1.75-acre portion of the road, which had been realigned, had been "taken." The court also ruled that the value of the taken portion did not exceed the state's \$3,000 offer of judgment. On August 24, 1999, the court entered final judgment in favor of the state. The Harrisons appealed to the Ninth Circuit Court of Appeals, submitting a form "brief." After delays caused by motion practice to determine the status of the United States (with the court ruling the U.S. is no longer a party to the case), the state's brief was filed on June 29, 2000. On September 6, 2000 the court issued an order allowing the parties 10 days to submit reasons why oral argument should be held, an indication that the court is inclined to decide the case on the briefs. Although the Harrisons did respond to the order, the court has not ruled on the request.

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7. State of Alaska v. United States [Southeast Alaska marine waters] (United States Supreme Court, No. 128, Original; our file nos: 221-99-0502, 221-99-791; state's attorneys: Joanne Grace and Laura Bottger, with outside counsel John Roberts, Jonathan Franklin, and Tom Koester; United States' attorneys: Jeff Minear, Mike Reed, and Bruce Landon).

The state filed a complaint against the federal government, claiming title to the lands underlying marine waters in Southeast Alaska, together with a motion requesting leave of the United States Supreme Court to file its case as an original action, in November of 1999. The suit was prompted by the Park Service's closure of

commercial fishing in Glacier Bay National Park but extends to other areas of Southeast as well.

The action is based on the Submerged Lands Act and the equal footing doctrine, which grant states entering the Union title to the submerged lands within their boundaries as well as the lands underlying inland waters, including any historic waters. The state's complaint asserts the state's claim to all lands underlying marine waters in Southeast Alaska in three counts encompassing the submerged lands in Glacier Bay National Park, the Tongass National Forest, and jurisdictional "doughnut holes" more than three miles from the mainland or any islands within Southeast Alaska's inside passage.

The state filed its case as an "original action" that originates in the U.S. Supreme Court, rather than working its way through the lower courts. While the Supreme Court has jurisdiction over cases between a state and the federal government, it can decline the state's request that it take the case. The Court has appointed George Washington University Law Professor Gregory Maggs to act as special master.

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8. Confederated Tribes & Bands of the Yakama Indian Nation, et. al v. Malcolm Baldrige (U.S. District Court for the District of Washington; state's attorney: Mike Stanley). This case has been resolved by a long term agreement in the Pacific Salmon Treaty. However, the court retains jurisdiction over the controversy.

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9. [U.S. v. Washington](#) (U.S. District Court for the Western District of Washington. In [U.S. v. Washington](#), 384 F. Supp. 312 (W.D. Wash. 1974), aff'd, 520 F.2d 676 (9th Cir. 1975), Judge Boldt held that certain northwest Indian Tribes have a treaty fishing right to harvest 50 percent of the harvestable fish passing through recognized tribal fishing grounds. Under the continuing jurisdiction of the federal court, the northwest tribes now seek a ruling that their treaty rights include salmon caught in southeast Alaska that would otherwise return to tribal fishing grounds. The parties have filed a stipulation to stay the case for 10 years as a result of the 1999 amendments to the Pacific Salmon Treaty recently agreed upon by the United States and Canada.

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10. [Alaska v. United States and Bruce Babbitt \[RS 2477\]](#) (U.S. District Court No. F97-0009-CV (Judge Singleton); our file no. 221-97-0574; state's attorneys: Rob Nauheim and Laura Bottger; U.S.' attorney: Bruce Landon). On March 26, 1997, the state filed a quiet title action in federal court seeking to adjudicate an R.S. 2477 route on the Harrison Creek-Portage Creek Trail. The state has obtained entry of default against the mining claimants with claims located on the trail. The remaining parties are engaged in

settlement discussions and the case has been stayed. The state recently dismissed its claim against a remaining defendant, and the state and the United States have now settled the case, recognizing a 60 foot right-of-way in the state.

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11. Hyak Mining Co. v. U.S. [RS 2477] (U.S. District Ct. No. A96-0478-CV (HRH)); our file no. 221-97-0707; state's attorney: Elizabeth Barry; plaintiff's attorney: Mary Nordale; U.S.' attorney: Bruce La. (H). Hyak Mining Co. sued the United States to quiet title to the Jualin Mine Road in Berner's Bay in southeast Alaska. The state is not a party to the action but state participation will be required to enable the parties to settle the case. Settlement discussions are progressing and the state has given the required 180-day notice of intent to sue to allow intervention in the case. Details regarding the means and methods of survey remain to be resolved between the parties.

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12. Harold Kalve v. Frank Rue, Commissioner of Fish and Game, William Daley, U.S. Sect'y of Commerce, Steve Pennoyer (U.S. District Court, District of Alaska, No. A99-0004 (Judge Singleton) and State of Alaska v. Harold Kalve, Alaska Court of Appeals No. A-07394; our file nos. 221-99-0408, 221-00-0016, and

221-99-0533; state's attorneys: Rob Nauheim and Lance Nelson; U.S.' attorneys: Lauren Smoker and Rick Monikowski; Kalve's attorney: Jim Brennan.) In 1998 Harold Kalve, an IFQ holder, was charged in state district court with fishing for sablefish in state waters (Resurrection Bay) after a state closure. Kalve asked the Seward District Court to continue or dismiss the criminal matter based on the suit he filed in U.S. District Court claiming that federal law and the federal Individual Fishing Quota (IFQ) program preempt the state from closing state waters when the federal waters are open. In June 1999, Magistrate Peck dismissed the state criminal case. He based his decision on the federal paramountcy doctrine – an issue that both parties agree does not apply here. The state appealed to the Alaska Court of Appeals to decide the merits of Kalve's preemption claim and whether to reinstate the criminal charge. On September 29, 2000, the Court of Appeals issued a decision reversing the District Court and reinstating the charges against Kalve. The court held that federal regulations did not preempt state regulations in state waters because federal regulations acknowledged the validity of state regulations. Kalve petitioned the Alaska Supreme Court for a hearing. The petition was recently denied.

In the federal court case, U.S. District Judge Singleton issued a favorable decision dismissing Kalve's case against ADF&G Commissioner Frank Rue on the basis that the 11th Amendment does not permit Kalve to sue the state in federal court. Judge Singleton stated that the 11th Amendment issue was a close one, and that his decision turned on an interpretation of Idaho v. Coeur d'Alene Tribe of Idaho, 521 U.S. 261. In Coeur d'Alene the Supreme Court acknowledged the continuing validity of the Ex parte Young exception but found where a suit involves a particular interest affecting the state's sovereignty, the Ex parte Young exception does not apply and the suit is barred by the 11th

Amendment. Judge Singleton held that Kalve's lawsuit "implicates the state's control of its fish and wildlife resources as well as similar sovereignty concerns" and that the Young exception should not apply. He further found that "Kalve's suit seeks to divest the state of all regulatory power over certain of the State of Alaska's waters." Kalve amended his complaint to name the individual members of the Board of Fisheries, but after the adverse ruling in state court has agreed to stipulate to their dismissal.

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STATE COURT CASES

1. Kenaitze Indian Tribe v. State (Alaska Superior Court No. 3AN-91-4569 Civ. (Anchorage, Judge Hensley); our file no. 223-91-0528; attorney for state: Steve White; attorney for plaintiffs: Carol Daniel). The Kenaitze tribe filed suit to challenge the Cook Inlet subsistence fishing regulations, and amended their complaint to challenge the constitutionality of the 1992 subsistence law. Other Native groups from Ninilchik, Eklutna and Knik intervened.

Judge Fabe granted summary judgment invalidating the nonsubsistence area provision of the 1992 law on the grounds that it violates the equal access provisions of the state constitution. In 1995 the Alaska Supreme Court reversed, holding that the nonsubsistence area provision is valid. However, the court found unconstitutional another provision of the 1992 subsistence law that makes the proximity of an individual's domicile a factor at the Tier II level. Regulations have been adopted to reinstate the

nonsubsistence areas.

The Kenaitzes' challenge to the findings of the Joint Boards that resulted in the establishment of the Anchorage/MatSu/ Kenai Peninsula nonsubsistence area remains to be decided. The parties moved the court to stay proceedings on that claim in order to allow the Alaska legislature and Congress to take actions which would moot the case. As the legislature did not take those actions the briefing schedule has been reactivated. The tribes filed a motion for summary judgment, the state filed an opposition, and the plaintiff's reply is due December 18, 2000.

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2. Interior Airboat Ass'n v. State (Fairbanks Superior Court No. 4FA-96-1494 Civ. (Judge Beistline); our file no. 221-97-0004; state's attorney: Kevin Saxby; Interior Airboat attorney: Lynn Levengood). The Airboaters sought to invalidate a regulation which prohibits the use of airboats for moose hunting near Nenana and another which limits aircraft use for hunting along part of the Noatak River. After briefing and oral argument, the court entered summary judgment in the state's favor, upholding the regulations. The Airboaters appealed the decision to the Alaska Supreme Court, and briefing and argument have been completed. We await the opinion.

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3. Kachemak Bay Conservation Society, et al. v. State, DNR (Alaska Superior Court No. 3AN-96-7609 Civ. (Anchorage, Judge Murphy); our file no. 221-98-0109; Intervenor-Appellee Alaska Mental Health Trust's attorney: Henry Wilson; Appellee Department of Natural Resources' attorneys: Lawrence Ostrovsky and Jeffrey Landry; Intervenor-Appellees' (Marathon Oil Co. and Union Oil Co. of California, Forcenergy, Inc., CIRI, Anadarko Corp.) attorneys: Susan Reeves and Tom Amodio, Rubini and Reeves; Appellants' attorney: Patrick Lavin, Trustees for Alaska). Kachemak Bay Conservation Society, et. al., appealed the administrative decision of DNR's Division of Oil and Gas that Oil and Gas Lease Sale 85-A was in the best interests of the state. The Alaska Mental Health Trust intervened in the litigation because the Trust owns several of the parcels that were leased in the sale, and the Alaska Mental Health Trust Land Office had determined that the lease sale was in the best interests of the Trust, as separate from the best interests of the state as a whole. In a decision dated August 11, 2000, the Alaska Supreme Court found that Kachemak Bay Conservation Society's challenge failed in all respects, and affirmed.

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4. Kashwitna Farms, Inc., Harry and Consuelo Wassink v. State, consolidated with Hawkins v. Wassink (Alaska Superior Court No. 3AN-88-56 Civ. (Anchorage, Judge Joannides); our file no. 221-88-0853; Kashwitna Farms/Wassink's attorney: Joe Josephson; state's attorneys: Kevin Saxby and Rob Nauheim). These consolidated cases arise out of the Pt. MacKenzie

Agricultural Project. The Wassinks acquired a dairy parcel and borrowed money from the Alaska Agricultural Revolving Loan Fund to develop it. When they failed to meet contractual development requirements, DNR sued them to terminate the land sale contract (Hawkins). When they defaulted on repayment of their loans, as the state was preparing to take collection action against them, they sued the state under various lender liability theories including misrepresentation, breach of fiduciary duty, and breach of the duty of good faith and fair dealings (Kashwitna Farms). The state countersued to collect the defaulted debt. In the Hawkins contract termination action, the superior court has twice granted the state summary judgment and the Alaska Supreme Court has twice reversed it, indicating that the Wassinks are entitled to a trial on their defenses that the contract should not be terminated under waiver, estoppel and contract frustration theories. The court has dismissed nearly all of the claims against the state with the affirmative defenses in Hawkins and the breach of duty of good faith and fair dealings and related issues in Kashwitna Farms remaining to be resolved. Recent efforts to settle have been unsuccessful. Trial should be scheduled within the next several months.

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5. Koyukuk River Tribal Task Force v. Rue (Alaska Superior Court No. 4FA-99-561 and 4FA-00-777 (Fairbanks, Judge Greene); our file nos. 221-99-0630 and 221-00-0677; Koyukuk Tribal Task Force's attorney: Michael Walleri; state's attorney: Kevin Saxby). The seven village councils of the Koyukuk drainage have sued to obtain injunctive relief, requiring the Board of Game to make further

findings as to the harvestable surplus and amounts reasonably necessary to provide for subsistence uses of moose, to eliminate or restrict nonsubsistence uses of moose in the area, and to require the department to implement an emergency closure of nonsubsistence uses until the desired regulatory scheme is in place. The trial court granted the state summary judgment because the tribal task force failed to exhaust administrative remedies. Following the Spring Board of Game meeting, at which Koyukuk moose issues were decided, the Tribal Task Force has filed a new, nearly identical, complaint. Summary judgment briefing is now being done.

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6. Cigna Insurance Co. & Native Village of Mekoryuk, et al. v. Moses, (Alaska Supreme Court No. S-08908/08918; state's attorney: Judy Rabinowitz; appellants' attorneys: Mark Figura & Tom Batchelor; appellee's attorney: Erling Johansen). This case is before the Alaska Supreme Court on interlocutory petitions for review of a superior court decision that the Native Village of Mekoryuk is not validly recognized as a tribal government. The superior court reversed and remanded the Alaska Workers Compensation Board's determination that it lacked subject matter jurisdiction over a widow's workers compensation claims against the Native Village of Mekoryuk and its commercial enterprise because of the tribe's sovereign immunity from suit which had not been waived. The state filed an amicus brief in support of the petitions for review urging that the court clarify the state law on the status of federally recognized tribes in Alaska. The petitions were granted and briefing was

completed. However, the parties reached a settlement and the appeal was dismissed.

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7. Leuthe v. State of Alaska (Alaska Supreme Court No. S-09343; Alaska Superior Court No. 3HO-98-62 Civ. (Judge Brown); our file no. 221-99-0173; state's attorney: John Bakær; plaintiff's attorney: C. Michael Hough). Plaintiff alleges he was wrongfully denied a Cook Inlet drift gill net entry permit for commercial fishing of salmon. Plaintiff argues that his application was three years late due to "misadvice" by a state employee and therefore his application should be accepted. The state's position is that he was given good advice, not "misadvice", namely that he doesn't have enough points to qualify for a permit. The permit was, therefore, rightfully denied. Leuthe filed an opening brief and the state filed its opposition. On August 20, 1999, the superior court issued a memorandum decision upholding the CFEC, without waiting for Leuthe to file his reply brief. Leuthe appealed to the Alaska Supreme Court, and briefing was completed on August 30, 2000. As Leuthe did not request oral argument, the case is awaiting decision.

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8. Greenpeace, Inc. v. State (Anchorage Superior Court. No.

3AN-99-3350 Civ. (Judge Reese); our file no. 223-99-J408; state's attorneys: Lisa Weissler, Larry Ostrovsky, Mike Barnhill; Greenpeace's attorney: Nancy Wainwright; Intervenor BP's attorney: Jeff Feldman). Greenpeace filed an administrative appeal of the state's coastal program consistency determination for BP Exploration's Northstar Project. BP was granted intervenor status in the litigation. Briefing is complete, and oral argument was held September 7, 2000. A decision is pending.

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9. [Greenpeace v. Alaska Dep't of Natural Resources](#) (Anchorage Superior Court No. 3AN-00-3648 Civ., our file no. 221-00-0613; state's attorney: Rob Nauheim; Greenpeace attorney Nancy Wainwright). Greenpeace has appealed the Department of Natural Resources' decision to lift an automatic stay of the department's decision to issue a temporary water use permit for water used on the Northstar oil development project. Briefing will begin in December 2000.

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10. [Greenpeace v. Alaska Dep't of Natural Resources](#) (Anchorage Superior Court No. 3AN-00-3415; our file no. 221-99-0860; state's attorney: Rob Nauheim and Larry Ostrovsky; Greenpeace's attorney Nancy Wainwright. In October and November, 2000, superior court judge, pro tem, Sigurd Murpny remanded two water permits to the Department of Natural Resources for additional

review. The permits had been issued to BP (Alaska) Exploration (BPXA) for oil development at the Northstar field. Judge Murphy ruled that the department must provide Greenpeace an opportunity for an administrative appeal of the department's decisions on several legal issues related to a certificate of appropriation for oil development at Northstar. Judge Murphy also ruled that the department's issuance of a temporary water use permit to BPXA was not permissible without conducting public notice of the decision to issue the permit or conducting a review of the application under AS 46.15.080. The matter is now before the agency.

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11. [Cook Inlet Keepers v. State of Alaska Office of Management and Budget, Div. of Governmental Coordination](#) (Superior Court. No. 3AN 99-3482 Civ. (Judge Card); our file no. 223-00-0140; state's attorney: Lisa Weissler; appellant's attorney: Trustees for Alaska). Cook Inlet Keepers appealed the state's final coastal program consistency determination concurring with Forcenergy's certification that installation of an exploration drilling platform in Cook Inlet is consistent with the coastal program. The superior court ruled in favor of the state. Trustees have appealed to the Alaska Supreme Court. Appellant's brief is due December 22, 2000.

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12. [Haida Corp. v. Patrick Galvin, Director, Division of Governmental Coordination, Office of Management and Budget, Office of the](#)

Governor, State of Alaska (Superior Court. No. 3AN 99-3455 Civ. (Judge Souter); our file no. 223-00-0052; state's attorney: Lisa Weissler; appellant's attorney: Cynthia Pickering Christianson). Haida Corporation appealed the state's final consistency determination that imposed stipulations on Haida's proposed hydroelectric project in Southeast Alaska. Haida objects to two of the stipulations, one related to screen size and the other to instream flow requirements. Haida has requested a stay of the appeal pending issuance of the FERC license. The FERC license issued October 24, 2000. Haide is requesting another stay pending issuance and agency administrative appeals of state permits.

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13. Crivello v. State, CFEC (Kenai Superior Court No. 3HO-99-159 Civ. (Judge Brown), our file no. 221-00-0144; state's attorney: John Baker; appellant's attorney: C. Michael Hough). In this Rule 601 Administrative Appeal, Crivello claims the CFEC erred in denying him a limited entry permit for the Bristol Bay drift gill net salmon fishery. The appellant alleges that the CFEC improperly measured his "income dependence" on the fishery, and denied him due process by ruling, on reconsideration, to grant a third hearing on his claims. On August 21, 2000, the Superior Court affirmed the Commission's decision in all respects. On September 18, Crivello appealed to the Alaska Supreme Court. The briefing schedule is pending.

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14. Kenai Peninsula Borough v. State. Dep't of Natural Resources (Superior Court No. 3KN-00-30 Civ. (Judge Neville); our file no. 221-00-0444; state's attorney: Rob Nauheim; borough attorney: Holly Montague). The Kenai Borough challenges the state's reporting of the Quartz Creek Trail to the state legislature as a qualifying RS 2477 route under AS 19.30.400(b). The parties are engaged in settlement discussions and have moved the court for a stay until December 2000.

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15. Alaska Trademark Shellfish. Zaugg. et al. v. ADF&G. Commissioner Rue. and various ADF&G employees (Alaska Superior Court No. 1KE-00-211 Civ. (Judge Thompson); our file no. 223-01-0122; state's attorneys: Shannon O'Fallon and Steve White; appellants' attorneys: Bruce Weyhrauch and Clifford Smith). ATS sued for injunctive relief and damages over the Department of Fish and Game's alleged refusal to issue a decision on pending aquatic farm operating permits to geoduck farmers. Given the complicated nature of the issues involved with permitting aquatic farms in areas where there were large quantities of wild geoduck clams, ADF&G wanted to promulgate regulations before acting on the permits. ATS and the state reached an agreement for a date certain for issuing a decision which halted the original action. The department developed principles for issuing permits and drafted permits for the applicants to sign, but the aquatic farmers were not willing to abide by the permit conditions, leaving the Commissioner no choice but to deny the applications. ATS and five other applicants appealed to

Subject: A Leftist Legacy

Date: Fri, 26 Jan 2001 14:04:38 -0900

From: Eddie Grasser <Eddie_Grasser@legis.state.ak.us>

Organization: Alaska State Legislature

To: David Stancliff <David_Stancliff@legis.state.ak.us>

CC: Jennifer Yuhas <Jennifer_Yuhas@legis.state.ak.us>

For those who think liberal Dem's aren't overbearing totalitarians.



DRUDGE REPORT

XXXXX DRUDGE REPORT XXXXX WED JAN 24, 2001 18:51 ET XXXXX

WHITE HOUSE OFFICES LEFT 'TRASHED': PORN BOMBS, LEWD MESSAGES; LEGAL PROBE CONSIDERED

****Exclusive Details****

The Bush Administration has quietly launched an investigation into apparent acts of vandalism and destruction of federal property -- after incoming Bush staffers discover widespread sabotage of White House office equipment and lewd messages left behind by previous tenants!

Harriet Miers, 55, Assistant to President Bush and staff secretary will be investigating possible legal ramifications of the White House trashing and possible theft, the DRUDGE REPORT has learned.

"Miers is just beginning her investigation," a well-placed source said late Wednesday from Washington. "The level of the trashing is very troubling, this is not just 'W' keys missing from keyboards."

The damage left by departing Clintonites goes "way beyond pranks, to vandalism", said a close Bush adviser.

White House employees aren't waiting to be interviewed by Miers. They are providing names of the worst malefactors, previous occupants of specific offices.

Photographic and audio evidence is being collected -- as the full scope of the damage becomes clear.

Bush's staff has been cautioned not to go public with the extent of the damage and the worst is being closely held among very top staffers for fear of leaks. But, according to sources, so far Bush officials have found:

*Phone lines were cut, rendering them inoperable.

*Voice mail messages were changed to obscene, scatological greetings. One Bush staffer had his grandmother call from the Midwest. She was horrified by what she heard on the other end of the line.

*Many phone lines misdirected to other government offices.

*Desks found turned completely upside down and trash deliberately left everywhere.

*Computer printers that were filled with blank paper but interspersed with pornographic pictures and obscene slogans that would be revealed only as items were run off the computer.

*'W' keys weren't just pried off more than 40 keyboards, some were glued on with Superglue; some were turned upside down and glued on.

*Filing cabinets glued shut.

*VP Office space in the Old Executive Office Building found in complete shambles. Mrs. Gore had to phone Mrs. Cheney to apologize, first reported by Rich Galen's Mullings.

*Lewd MagicMarker graffiti found on one office hallway.

Separately, the WASHINGTON TIMES reported that Air Force One was "stripped bare" during the former president's "official" farewell flight to New York on Inaugural Day.

All the plane's porcelain china, silverware, salt and pepper shakers, blankets and pillow cases -- most of it bearing the presidential seal -- were taken by Clinton staff, a military steward told the paper.

Developing...

Reports are moved when circumstances warrant
<http://www.drudgereport.com> for updates

FAX TRANSMITTAL

FROM: Frank Richards Richards & Sons Inc.
Phone 907-747-3355 Fax 907-747-6535
Jay Kassner K & R Enterprises Inc.
Phone 907-345-6535 Fax 907-345-8244

DATE: January 22, 2001

RE: President Clinton's move to make the Tongass National Forest roadless

This letter is intended to make comments concerning President Clinton's attempt to designate the Tongass National Forest as a roadless area.

We encourage you to sponsor and support legislation or initiatives which will require the State of Alaska to take an active role in overturning the Tongass National Forest Roadless initiative. This initiative is a strictly political ploy and is not based on facts or policies required to be adapted by the U. S. Forest Service under the Multi-use provisions in Federal law.

Prior ANILCA legislation stated that there would be no further change's or restrictions placed on the Tongass National Forest. President Clinton's move to designate the Tongass as a roadless area will further decrease property values and cause the economy of Southeast Alaska to further deteriorate.

During the past forty years, many southeast communities and individual businessmen made decisions to make large investments in infrastructure based on on-going long term timber harvest contracts as well as continued multi-use of the Tongass National Forest. The K & R Office Building in Sitka is a case in point. We built a large state-of-the-art office building for the U. S. Forest Service in Sitka. Attached is an assessed valuation chart showing a drop of over six hundred thousand dollars on our property from 1993 to 1994. This is the period when ALP's long-term timber contract was illegally voided by the Clinton administration.

As you are no doubt aware, the U. S. Forest Service has dramatically scaled back their mission in Southeast Alaska. We anticipate that we eventually will be left with a building for their specific purposes and no tenant to cover ongoing costs. If our building were located in Seattle or Portland we could most likely find another tenant. However, that is not the case and we will be left "holding the bag" when the U. S. Forest Service departs Sitka.

Page 2

We believe it is only equitable that the State of Alaska, local communities and business should be justly compensated for the termination of the timber contracts and the on-going lockup of the Tongass National Forest. We urge you to join in on ALP's suit against the Federal government and to assist local communities, business and individuals to join as damaged parties to any actions taken.

We encourage you to start a public relations campaign to provide people outside Alaska with accurate information regarding the Tongass and ANILCA. This is desperately needed to counteract the massive effort by outside environmental groups set on destroying the economy and livelihood of Southeast Alaskans.

We also encourage you to start an economic development commission to assist Southeast Alaskans during the transition from a resource based economy to an economy based on sight seeing excursions. Low interest or zero interest loans should be provided to assist residents and businesses in Southeast Alaska during the difficult times to come.

ATTACHMENTS: Assessed valuation K & R Building from City
& Borough of Sitka, assessors office
Fact sheet on Tongass National Forest


Tongass Forest Facts

- The Tongass National Forest spans 16,883,000 (17 million) acres.
- There are 5,721,733 (5.7 million) acres within the Tongass National Forest that are Congressionally designated Wilderness Areas and National Monuments. That accounts for 34% of the Tongass. No logging is allowed in these areas.
- For each acre of the Tongass that is managed for timber production, there are 8.5 acres of land designated by Congress as Wilderness. This land can never be logged.
- There are 9,933,000 (9.9 million) forested acres in the Tongass and 6,949,000 (6.9) acres of the Tongass are not forested. That means 58% of the Tongass is covered by trees and 41% is covered by rock, glaciers, water, etc.
- Of the 9.9 million acres of trees on the Tongass there are 4,233,455 (4.2 million) acres that have been deemed by the land manager, the Forest Service, "non-productive" timber lands. So 43% of the forested acres on the Tongass are "non-productive" which means they are either lands not capable of growing commercial wood, or land physically unsuitable for reasons such as steep slopes, some land has not yet been evaluated, and some land has been withdrawn from land use designations allowing timber harvest.
- The remaining forested acres comprise the area where timber harvest may be planned. There is 3,700,000 million acres in the "commercial forest" of the Tongass. That accounts for 37% of the forested acres of the Tongass, or 22% of the entire Tongass.
- The Tongass Land Management Plan revised in 1999 plans to harvest timber from 576,000 acres from the commercial forest of the Tongass over a 200 year rotations. That means that less than 10% the forests in the Tongass will be cut in the next 100 years - a mere 3.5% of the entire Tongass is available for timber management, which

- The Tongass is roughly the size of the entire state of West Virginia.
- The current status of fisheries resources on the Tongass is unequalled anywhere in the world.
- The combined Southeast Alaska fish habitat and harvest goals set by fisheries biologists in the late 1980's for the year 2000 have already been surpassed by 145 percent.

-
- The new Tongass Land Management Plan provides for maintaining deer habitat capability sufficient to sustain wolf populations and current levels of human deer use.

- The importance of the beach and estuary buffers to a variety of ecological functions is well established. The current TLMP establishes 1,000 foot no harvest zones along beaches and estuaries to protect important habitat for deer, goshawks, marten, brown bear and bald eagles. The 1,000 foot no harvest zone along the coastline is in addition to the millions of acres of forested lands in Wilderness and Habitat Conservation Areas, where no logging is allowed.
- When President Theodore Roosevelt created the Tongass National Forest in 1907 he did so with the utmost wisdom. Roosevelt was way ahead of his time, recognizing as early as 1903 the importance of multiple use. "...First and foremost," President Roosevelt explained, "you can never afford to forget for a moment what is the object of our forest policy. That is not to preserve the forests because they are beautiful, though that is good in itself, nor because they are refuges for the wild creatures of the wilderness, though that too is good in itself; but the primary object of our forest policy, as the land policy of the United States, is the making of prosperous homes."

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- Of the 9.9 million forested acres in the Tongass, 8.3 million will remain closed to timber access and harvest. Under the current TLMP this is correct. However, this number could change and not all areas within that 8.3 million acres are permanently protected from timber harvest activities.
 - It's a tricky thing to talk about how much forest land is "unavailable." It is tricky because its definition varies. That number may or may not include all sorts of different factors.
 - There are 731,000 acres identified in TLMP as suitable for scheduling the expected 576,000 acres of harvest over the next 200 years (rotation). That's less than 1% of the forested acres of the Tongass.
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cat

**House Joint Resolution 6
Opposing the Roadless Rule**

Testimony before the Alaska House Resources Committee, January 24, 2001

Mr. Chairman, members of the committee, thank you for the opportunity to testify today. For the record, my name is Rachael Moreland, and I am the Associate Director of the Alaska Forest Association. The Alaska Forest Association (AFA) is the forest products industry trade association for Alaska and we represent about 90 small businesses in the forest products sector.

The Alaska Forest Association strongly supports HJR 6 and we urge the committee to move it to the floor as soon as possible. As you already know, the timber industry, and in turn the communities of Southeast Alaska, have already been badly damaged by imposed federal actions. Further withdrawal of roadless areas and prohibition of entry into those areas will have a detrimental, perhaps even a fatal effect on the small remaining sawmill industry.

The net effect of the roadless area withdrawal on the Tongass National Forest is particularly drastic. While the Forest Service touts the net impact of the Roadless rule to be a mere 2 percent of the nation's land base; the rule effects 31 percent of all national forest lands. In Alaska, the Roadless rule withdraws an additional 67 percent, or 15 million acres, from the Tongass and Chugach National Forests.

In addition to severely restricting roaded access to Alaska's National Forests, the Roadless rule reduces the land available for scheduled timber sales on the Tongass from 576,000 acres to approximately 311,000 acres. This is an extremely small parcel of land which is certainly not large enough to support the existing industry, much less the re-development of a "sustainable, value-added" forest products industry.

With respect to the Chugach National Forest, 99 percent of that forest is roadless. The Roadless rule prohibits all new transportation infrastructure in the Chugach without the benefit of a public planning process specific to that forest. The Chugach Land and Resource Management Plan is presently undergoing revision under terms set forth in the National Forest Management Act of 1976. AFA and several other user groups have been actively involved in the Chugach planning process. We believe that process, and similar processes provided for by law (namely the NFMA), are the proper venues for land use allocations in our national forests.

Furthermore, inclusion of Alaska's national forests – the Tongass & the Chugach – in the roadless rule violates the "no more" clause of the Alaska National Interest Lands Conservation Act. The rule is inconsistent with existing forest plans, especially in light of the latest revisions of the Tongass Land Management Plan. HJR 6 correctly states that the roadless rule creates de facto wilderness without Congressional action or approval. The state is correct to demand that the "no more" clause of ANILCA be honored.

Concurrently (actually the day before, January 4), the Forest Service issued new regulations on their Transportation Policy which, when combined with the Roadless rule, creates a one-two punch for management and stewardship for the entire national forest system, not just the roadless areas. They are building a wall around 58.5 million acres with the Roadless rule, and then, with the Transportation policy, making it all but impossible for local land managers to do their jobs. They have made the road building and maintenance procedures intentionally onerous so as to effectively make the remaining national forest lands subject to similar extreme restrictions. These two policies when combined cover every inch of our national forests. The implications of this policy are devastating for the 38 million acres of our national forests at risk to wildfire and the 28 million at risk of insect and disease.

The government's withdrawal of roadless areas is bad for ALL national forests, it is bad for the American public, and is particularly bad for Alaska. There is widespread opposition within Alaska to this Roadless rule and the Alaska Forest Association urges the legislature to join that chorus with a loud voice.

Again, Mr. Chairman and members of the committee, thank you for the opportunity to testify today. I would be happy to answer any questions regarding AFA's support of HJR 6.

Subject: [Fwd: HJR 6]

Date: Thu, 18 Jan 2001 18:04:50 -0900

From: Eddie Grasser <mtman@alaska.net>

Organization: Hunter Heritage Foundation

To: Eddie_Grasser@legis.state.ak.us

Subject: HJR 6

Date: Thu, 18 Jan 2001 12:49:58 -0900

From: "Tina Cuning" <tina_cuning@fishgame.state.ak.us>

To: "Grasser, Eddie" <mtman@alaska.net>

Eddie:

Per your request I've taken a quick look at HJR 6 to see if the ANILCA cites are accurate reflections of law. The simple answer is yes, they are relatively accurate, at least in spirit. There is some wordsmithing and doublechecking that would improve its accuracy to ward off nitpickers, particularly regarding the so-called "no more clause" in Sections 1326(a) and (b).

I've broken my suggestions into two areas:

1. The "No More Clause"--there are actually multiple sections of ANILCA that say "enough is enough".

* Consider adding before the 3rd Whereas:

"WHEREAS adoption of the roadless policy in Alaska defies Congress' findings and statements of intent in the passage of the Alaska National Interest Lands Conservation Act (ANILCA), wherein the "Purposes" of the Act Section 101(d) states:

This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby."

(emphasis added)

[For brevity sake, I would only include the bolded section; and with ANILCA spelled out in the above Whereas, it won't need to be spelled out in the one discussing Title VII in the current 4th whereas.]

* ANILCA Title VII has been amended, thus consider inserting another Whereas between the 3rd and 4th, or insert the following language in the beginning of the 4th, e.g.,:

"WHEREAS ANILCA 703(a) established 14 wilderness areas in the Tongass and the Tongass Timber Reform Act of 1990 amended ANILCA with an additional 5 wilderness areas in the Tongass."

(The 7th Whereas also refers to the Timber Reform Act, so these "whereas's" would be better in sequence, but also OK as written.)

* The 5th Whereas could use some tweaking because in fact 1326(a) does allow withdrawals greater than 5,000 acres IF noticed in the Federal Register and to Congress (which the administration did), but then is only in effect for

one year unless approved by Congress. So basically the Policy is legal in that they did the notices but only for one year. HOWEVER, it's clearly contrary to the spirit and intent of Section 1326. The addition of the underlined phrase and changing the word "prohibits" to "limits to one year" would help. OR, try a rewrite such as

"WHEREAS adoption of the President's roadless policy is contrary to the spirit and intent of ANILCA Section 1326(a), which limits the effect of executive branch actions that lack approval of Congress to withdraw more than 5,000 acres, in the aggregate, of public lands within Alaska to only one year."

* The 6th Whereas addressing 1326(b) needs the word "single" inserted before "purpose" and at the end, after "purposes" add ",unless authorized by Congress". Clearly the roadless policy was a single purpose study!

2. de facto wilderness by lower-48 standards. ANILCA both protected inholders rights and rights for future roads and utility corridors in conservation system units. The roadless policy prohibits those rights on regular forest lands as well as the monuments and wilderness areas.

* Consider adding:

"Whereas Congress believed they had completed reviews of wilderness and other special designations in the Alaska national forest lands but recognized the need for a thorough review of the refuges and park lands, ANILCA Section 1317 specifically directed the Secretary of the Interior to review the suitability of all the park and refuges lands not designated wilderness under ANILCA but similar authorization was not granted to the Secretary of Agriculture."

* The 16th Whereas referring to inholders could be beefed up in its reference to ANILCA, e.g.,:

"WHEREAS ANILCA Section 1110(b) specifically directs the Secretary shall authorize under reasonable regulations such rights as may be necessary to assure adequate and feasible access for economic and other purposes to State and private owners or occupiers of lands within or effectively surrounded by conservation system units, and ANILCA Section 1323(a) similarly provides for access across remaining forest lands for inholders, such rights will be virtually obviated under the President's policy thereby diminishing property and business opportunities Congress intended to protect;"

* Consider adding something which addresses the transportation and utility needs such as:

"WHEREAS Congress recognized the poor infrastructure in Alaska, thus specifically provided a process in ANILCA Sections 1105 and 1106 for approving the construction of needed transportation and utility systems in conservation system units, including wilderness areas with congressional approval. Adoption of the President's roadless policy prevents Forest administrators to act on applications, thus summarily overturning the Congressional provisions of ANILCA to meet access needs between villages and for community utility developments."

* Also consider that Section ANILCA Section 1109 states "Nothing in this title shall be construed to adversely affect any valid existing right of access." The state has adopted legislation which accepts the grant of public rights of way under RS 2477. If the roadless policy does not recognize or include similar language as 1109, we likely will have difficulty with the Service over the use and improvements of these roads, trails, and section line easements. I have not had time to study the final to see if this also needs to be included in any congressional action or litigation.

Regardless of whether the policy includes exceptions for administrators to recognize some of these rights under ANILCA, the entire policy circumvents the planning processes directed by existing law.

People need to be aware that the Forest has policies in place now that require them to de-road existing roads under excuses such as no money for maintenance. Thus even where small trails/roads are used for public access, the service is tearing out bridges and trails so the area qualifies as "roadless". For example, many old forest roads in the Tongass have inadequate culverts for fish passage. These roads have been in place for decades and are used for recreation, hunting, trapping, general outdoor activities but will be declared roadless due to the need to tear out the culverts for fish passage.

The issue of whether adoption of the roadless policy violates public process is bereft with circular reasoning. Some argue that the majority of the public favors the roadless rule. The argument is moot. Laws currently on the books provide certain public processes for land management decisionmaking. Laws also provide Congressional protections for management of those lands including access, economic opportunities, etc. It doesn't matter what percentage of the nation supports administrative proposals that violate congressional direction-public process cannot turn congressional statutes on their head. It is incongruous that federal agencies put management options on the table for the public to consider that are not consistent with congressional direction or implementable without congressional action.

Hope this helps.

50 Front Street, Suite 203
Ketchikan, Alaska 99901
Phone: 907-225-9675
Fax: 907-225-8546

STATE OF ALASKA
Legislative Information Office



Fax

RSRCS *ATTN* *RESOURCES*

To: *Management Cmte* From: *KTN-LIO*

Fax: *465-1822* Date: *01-25-01*

Phone: Pages: *(7)* *INC. COVER*

Re: *PLEASE ENTER THIS DOCUMENT INTO THE RECORD*
FOR YESTERDAYS MEETING ON HSRB.
Thanks!

JAN 25 REC'D
 Yesterday's
 testimony
 Faxed
 from Ketchikan
AY

12/10/00

To whom it may concern:

My name is Mike Sallee. I was born in Ketchikan and attended grades K-12 at Ketchikan schools. Except for close to ten years spent at Anchorage, Fairbanks, or points between those cities going to school or serving in the military, I've lived and worked out of Ketchikan most of my life.

As a deckhand I've worked since the early sixties in some form of commercial fishing between Monterey in California to Akutan and Bristol Bay in Southwest Alaska. In the mid to late sixties I saw much of Southeast Alaska from Lynn Canal in the north, to Prince of Wales Island in the west, to Dixon Entrance at the Alaska Panhandle's southern end, during numerous salmon packing trips from SE Alaska to Seattle. I've spent several weeks to months of each of the last two decades longline deckhanding for black cod, halibut, and rockfish along the coast from SE Alaska to SW Alaska.

I also currently harvest and sell lumber sawn on my own small sawmill.

Although my brother, a career logger, has done about every job in the woods from pulling whistle wire to yarder engineer to truck driver and loader operator, I've only spent parts of two seasons as a choker setter.

For the last several decades I've watched from the decks of boats, or while hiking or flying, as island after island, watershed after watershed, get stripped of their standing old-growth timber and become converted to road accessed, even-aged tree farms.

Even my brother, ever the logger, expressed dismay at the wholesale clearcutting and export practices of the industry that pushed his small gypo operation out of the picture. He was pushed off Kasaan Island by ANCSA timber interests whose enormous clearcuts totally eclipsed his small A-frame sales there. He mentioned other instances of his small A-frame patches in bays along eastern Prince of Wales being later dwarfed by adjacent grand scale clearcuts. The KP/LP/USFS cartel's strongly implied message was; "If you want to log you'll have to work for us or one of our subcontractors."

The words of a hook tender that I worked under at Neets Bay were among the first that I'd heard mentioning that the timber harvests as done in SE Alaska were not sustainable.

As for roads, there are people in the world who've lived very long and productive lives without benefit of automobiles or roads upon which autos travel. Indigenous people of Southeast Alaska thrived here for centuries without benefit of autos or roads. Furthermore, those Tlingits, Haidas, and Tsimsians thrived while still leaving a legacy of intact old growth forests that we hack down and export with impunity today.

It's distressing that JOBS rather than long term health of that legacy is the battle cry of those who claim to support progress. Those advocates of progress have continually

USDA Forest Service-CAET
Attention: Roadless Areas NOI
PO Box 221090
Salt Lake City, Utah 84122

12/18/99

Please include the Tongass National Forest in the consideration of a roadless policy for large blocks of unroaded areas in national forests.

- 1) The USFS is not adequately maintaining or otherwise dealing with the roads it has already built.
 - 2) The Tongass has already experienced major departures from its historical rural character over the last several decades due to road building. More than enough acreage of the Tongass has already been devoted to roaded, even-aged, grand scale tree farms.
 - 3) The TLMP will be due for revision in another decade. Yet again citizens will be required to respond to a huge federal bureaucracy's obsolete and over-optimistic timber harvest and development mandate.
 - 4) We will never develop small value-added timber operations that, for example, employ small portable mills and helicopter or trail accessed timber sales, as long as the remaining available wood is dedicated to roaded, even-aged, grand scale tree farms. Round log export of incidental species will continue to be the rule as long as we gear timber sales to large wood processing facilities.
 - 5) A development scenario precedent has been established on national forests that is unsustainable and reminiscent of the tobacco plantations of Jefferson's time. In Jefferson's time the landed gentry cleared land, grew tobacco until the soil was depleted, obtained more land, cleared it, planted, moved on, and because land was cheap, profited by perpetuating the cycle. In SE Alaska we see a similar scenario, a management policy that perpetually targets virgin stands of old growth, the difference being we must wait for trees to grow back rather than for soil to renew itself, and the boom/bust cycle hasn't matured to the extremes that it has in the lower 48. Excluding Alaska from a roadless policy will mean the national forests of Alaska will be pressured to provide jobs for people displaced from the lower 48 forests.
- SE Alaska's forests differ from those of the Pacific NW by being naturally more fragmented due to Southeast's island geography, and by having a harsher climate due to its higher latitude.

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R. David Sallee
P.O. Box 9557
Ketchikan, AK 99901

Oct. 20, 1993

U.S. Senator Ted Stevens

To whomever receives this letter: = **Warning** = This letter is specifically intended only for Senator Stevens' perusal and carries with it the explicit demand that I receive a **PERSONAL** reply from Senator Stevens and no other. If I don't receive a reply to this letter from Senator Stevens within a reasonable time frame this letter will go public to local and regional newspapers as well as other parties, whom I believe will be quite interested in the contents herein as well as my experience with the Senators' accessibility.....

Dear Senator Stevens:

I, as you can probably tell by the above, am NOT a Happy Camper! I'm in no mood to soft-talk about what I have to say because **I-HAVE HAD ENOUGH!!**

I have been seething ever since I read in the local paper the headline, "House-Senate committee gives broad range for Tongass Sale". After all the time, money, and effort that went into the Tongass Timber Reform Act, the purpose of which was to cut back on the runaway timber industry program here in the Tongass, the issue was decided in a **COMMITTEE** meeting! The article went on to say, "The Tongass timber cutting level has been a perennial battle between the House and Senate in recent years during deliberations on the Forest Service budget". What couldn't be decided by the full contingent of both houses of Congress gets blasted into being by you and a few others. A Great example of the de...ocratic system at its best!!!

With a government like that who needs enemies?

The article also quoted you as saying: "I am still committed to the Tongass Timber Reform Act. If the demand is there it will be cut". In other words, as long as there is a demand for the timber we'll cut it right down to the last stick, won't we?

I sound just like a radical lock-it-up preservationist don't I? One of those *Field and Stream*-reading, bleeding-heart spotted owl reactionary, Teddy Bear-cuddling, TV watching potato-heads who are led by the nose, that sign their names and put their money behind any smooth talking reactionary that tells a good story. Well, surprise, Mr. Senator, I am none of the above.

I am a born and raised lifelong resident of Alaska, so lifelong that I have been out of the country less than ten times during my almost 52 years living here. And I love Alaska. Or I did. I loved Alaska the way it was when I was a kid growing up here; a land full of mystery, a land full of history. A land tailor-made to satisfy the soul of one such as I who am a confirmed individual dedicated to self-sufficiency, living life on his own terms. That was the allure of Alaska, in addition to its incredible beauty, its tremendous bounty, it was a land that challenged a man, requiring the best from him but rewarding him with the best if he made it. It was all here! A man

1 chain saw, and let me tell you, no kid was ever more thrilled with his first car than I was with that
2 chain saw. I had ARRIVED! I was a LOGGER!

3
4 When I was sixteen and other kids were rodding around in their customized cars, chasing girls and
5 generally getting into mischief, I was out in this old slab of a boat with a 4 hp Wisconsin engine
6 with my chain saw, a peavey, a jack, and my little winch getting logs off the beach and taking
7 them into Totem Lumber Co., a small, two-man sawmill who gave me thirty dollars per M for
8 them. I bought a lot of hamburgers and ice cream as well as my "business" needs, but I also bought
9 my school clothes and helped out with the family finances. My mom didn't make much money.
10 During school season I cut firewood on evenings when the weather was good enough to do it, both
11 for our own use as well as for sale. And I didn't need a permit to do it either. Most of the money I
12 made went to help Mom make ends meet.

13

14 And the story goes from there. I worked in the woods for over 26 years before I ever did anything
15 else, and it was like a fish being out of water. For me, there IS no other thing to do.

16

17 I'm not logging now. I've been trying to do other things like pile and dock work and I worked in
18 the local rigging loft for a while where I got to work with brand new cable instead of the gnarly,
19 jaggery, kinky stuff we work with in the woods. I've driven truck. They're just jobs. They're not
20 fun. Logging used to be fun.

21

22 My attitude when I was young, working in the woods, was just like every other loggers'. In 1959,
23 when I got out of high school and into the woods the Ketchikan Pulp Co. had only been cutting
24 timber in S.E. for about 6 years. It was pretty much wide open and what we now know about the
25 forest and the environment we didn't know then. There seemed to be enough timber for everybody.
26 Nobody bid on anybody else's show because there was lots to be found everywhere else.
27 Everybody believed the renewable resource-sustained yield propaganda handed out by the Forest
28 Service and the industry. There had been no Native land selections yet either, nor any rubber-
29 stamped Wilderness Areas and National Monuments. Down below they had "tree farms". Already
30 there were areas that were being logged for the third time. I didn't see the significance there.
31 Because there was so much old-growth in the Northwest as well as this huge land of Alaska, the
32 tree farms sounded like a good idea but they were private timber owners little game, and, of
33 course, everybody knew that second growth timber was vastly inferior to old-growth.

34

35 !But on the whole it seemed that the timber really was a renewable resource; we could see the areas
36 growing back from the previously logged land we believed would provide the next crop. But there
37 are a lot of things we didn't take into account, and from what I've observed, we're still very
38 reluctant to address these issues, or even admit they are issues.

39

40 When I went to work at the K-P camp in 1960 at the age of eighteen, they had the finest of
41 machinery then available. They were running 5 sides plus a cold deck side and they also picked the
42 roadsides with the grapple shovels. In addition they had a couple tractor-mounted "triple-drum"
43 units that were used as spare sides in case of breakdown or when another setting had been logged
44 out and was in the process of moving and rigging up, a process that could take from one to three
45 days. We worked eight-hour shifts then, not your nine- to ten-hour days commonplace today.

46

1 account for the year. Getting out the cut was paramount. Meeting legal requirements and Plan
2 Standards and Guidelines was secondary."
3

4 The bugs are starting to come out of the woodwork Senator Stevens. More and more people are
5 coming with evidence of the duplicity of the various Government branches' wrong-doing. I think it
6 is a good sign, because, I think, the Government has forgotten that it is not the ruler of the people,
7 but rather, that the people are the rulers of the Government. It's about time we put the Government
8 back into "lead".
9

10 In 1992, the two long-term contractors enjoyed the use of 298.4 million board feet of old-growth
11 high volume/high grade wood at a net loss to the taxpaying public of 64.1 million dollars!
12 Essentially, every person who paid taxes that year paid the two companies to clear-cut hundreds of
13 acres of trees with one for sure undeniable effect: those trees are gone and we will not see the likes
14 of them again where they once stood. Another aspect is that virtually none of the product was used
15 by the domestic populace; the average John Doe American citizen saw none of what those trees
16 provided, a substantial portion of which was manufactured into high grade LUMBER PRODUCTS
17 manufactured by Ketchikan Pulp Co at their Ward Cove plant, at Metlakatla's Annette Hemlock
18 Mill, and at Alaska Pulp's subsidiary, Wrangell Forest Products' mill. With very little exception, all
19 was exported to Pacific Rim markets. The two industrial giants took their profits and ran, leaving
20 not only a wounded environment, but a 64.1 million dollar deficit in OUR wallets. We would have
21 been better off to have distributed the cash around to all of the participants involved and **LET**
22 **THE TREES STAND!**
23

24 According to a very good book that I have depicting the development of the timber industry from
25 its very inception; in this country, as well as Canada, commercial lumbering began up around the
26 St. Lawrence River in the 1760's with the export of broad-axed square timbers to the West Indies.
27 It didn't take long for large, powerful timber entities to evolve and those entities have jealously
28 dominated timber and its use and have ruthlessly crashed and slashed their way through the
29 American forests from coast to coast. The eventual demise of the old-growth ecology, or, I should
30 say, the concept of such a thing has very apparently been given little credence, because the same
31 old attitude prevails today. Dominate at any cost. Snow-job the masses into believing or at least
32 accepting their story that old-growth is "over-ripe" and that second growth is healthier and more
33 productive, and anyway we have TECHNOLOGY! To overcome the vast difference in quality
34 between old-growth and second-growth. TECHNOLOGY!..... In the hands of man it is not so
35 slowly destroying our planet.
36

37 I get the message that [it] doesn't matter to some folks: That economy concerns, balance-of-trade
38 deficits, (and of course, we mustn't forget that the United States MUST CONTINUE to aspire to be
39 the No. 1 World Power), the jobless rate, to name but a very few, totally eclipse any concern for
40 the necessity to retain a healthy, multiple use, sustained yield, old-growth forest ecology, an
41 ecology that would support a host of small individual endeavors like the one I used to have,
42 carefully husbanding the resource.
43

44 My government hears but it doesn't listen. Tremendously valuable input is being handed to our
45 leaders, such as yourself, but, in the end it just goes ahead and does what it damn well pleases
46 anyway!

1 There was life before Ketchikan Pulp and Alaska Pulp and there'll be life after them. I don't believe
2 they are some kind of gods we need to placate continuously with pounds of our flesh or that of
3 future generations.

4
5 They can learn how to tighten up their belts just like the rest of us. Or they can get to hell out.

6
7 I am very much interested in your comments and explanations as to why you have acted in the
8 fashion that you have.

9
10 Sincerely,
11 David Sallee

12
13
14 *[A sticky note attached to the foregoing reads:]*

15
16 To Mr. Dave Katz - or whomever else that this concerns:

17 I would like to become more acquainted with your organization, its attitudes and goals. Therefore I
18 am submitting this copy of a letter for your review. You, I am sure, are well versed in the topical
19 content. But it will also serve as an introduction as to who I am, where I'm coming from, my
20 attitude toward the issues, and the motives behind them, as well as my own motives for writing the
21 letter. I'm interested in your comments.

22 Yours,
23 Dave Sallee

24
25 *Dave has done about every logging job in the woods. From whistle punk at Hollis during pre-*
26 *"Talkie-Tooter" days he's set chokers, chased (unhooked the chokers at the landings), been riggin'*
27 *slinger, hook tender, yarder engineer on the big log sled-mounted yarders as well as mobile steel*
28 *towers, grapple yarders, and skyline/carriage operations. He's been a loader operator and dump*
29 *machine operator. He's built several log floats, A-frames, and yarder sleds, been a busheler, boom*
30 *man, and high rigger during the wood spar tree days and later on the towers. He's gypped on his*
31 *own and worked in several small mom and pop operations. He was a good mechanic and*
32 *proficient enough welder to rebuild his own aluminum boat. He has collected quite a few hooks on*
33 *logging and has been an accomplished artist and draftsman. I considered him a master at applied*
34 *mechanics as it pertains to logging.*

35
36 *Within the last year Dave has been diagnosed with dementia. I suppose those who disagree with*
37 *his interpretation of things would accuse him of slipping when the above letter was written. I*
38 *would disagree with that assessment. While Dave and I didn't always see eye to eye on some*
39 *philosophies I think his understanding of the evolution of forest management was pretty accurate.*

40
41 *Mike*
42 *January 24, 2001*

43

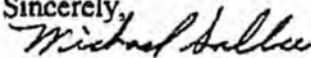
6) Gravina Island, a place I've resided at for at least part of each year since 1956 when I was nine is now on the chopping block for the USFS's grand scale road and clearcut management prescription. Gravina's existing roads consist of those immediately tied in with its airport, the alder-overgrown logging roads extending a few miles from Vallenar Bay, and some short access roads to development near Lewis Reef and some old mining activities in Seal Cove.

My own use of Gravina has primarily been tied closely to the beaches. My numerous inland excursions on foot were primarily subsistence hunting for deer or grouse, or for recreational hiking. It would be difficult to condense forty plus years of activity into a few pages. I learned many skills: field dressing deer and grouse, marksmanship and handling firearms, becoming at ease while alone in the woods, moving quietly in the woods, brushing and blazing my own trails, learning how far I can hike in a day, bag a deer and pack it back to the beach before midnight, identifying waterfowl; scoters, teals, goldeneyes, buffleheads, mallards, sandpipers, snipes, herons, as well as hawks, geese, and swans. I learned balancing on floating logs, sawing and splitting firewood, climbing trees, pulling stumps, small boat handling, outboard motor operation and maintenance, how fuel hoses can become clogged with ice in freezing weather, how to navigate in fog, storm, and darkness, and what happens when you try to mount a 15 horsepower outboard motor on the unbraced transom of an eight foot homemade plank dinghy. Ad infinitum.

Perhaps I need to realize I was blessed to have experienced the freedom of a time and place unencumbered by contentious ownership and activities. Much of the freedom is still there in the heart of Gravina's 63,000-acre wilderness in Ketchikan's front yard, but I'm seeing few restraints to privatization for profit being advocated by my local, state, and federal government.

I'm not averse to cutting timber on Gravina, I own a sawmill and recognize a future need for wood for myself and the community around me. But given the plethora of roads on POW, Annette, Revillagigedo, and all other major islands in SE Alaska I would advocate a much more conservative development scheme for Gravina. Keep the 40 million board feet available for harvest on the 1800 acres but parcel it out at the rate it grows, about 300bf/acre/year. If the wood is there people will figure out how to get it without roads. No more roads on Gravina. Limit that variety of access, development, and urbanization to the islands where it's already occurred. Thank you.

Sincerely,



Mike Sallee

PO Box 7603

Ketchikan, AK 99901

argued that the technology available to us does not allow us to enjoy healthy economies by keeping the old growth qualities of our surroundings intact.

Even more exasperating, we're relentlessly reminded that we cannot live healthy, productive lives in SE Alaska without being kept on a federal welfare umbilical, i.e., substantial infusions of federal dollars to keep our economy running. A vicious myth persists that large, road-accessed clearcuts must be perpetuated in order to afford education and maintain our ties to the land.

My mother homesteaded twenty six acres on Gravina Island in the late fifties. I was nine when we started our annual spring migrations by fourteen foot skiff to the remote site. As I grew older I learned to hunt and spent many hours hiking the hills, muskegs and beaches of Gravina. I've dive-harvested geoducks, sea urchins, and sea cucumbers from Gravina's subtidal shores.

Now that Prince of Wales, Revillagigedo, and other parts of Southeast Alaska have either been worked over by logging or placed off limits to logging, Gravina remains one of the last large unroaded landscapes on which to deploy the great roaded timber sale layout machine that brought loggers to Southeast by droves in the last forty-some years. Yes, Gravina is on the chopping block for not only the USFS but also state and private interests. While there's some effort by the different timber stakeholders to coordinate their efforts in timber extraction, I haven't seen much agency interest or initiative toward leaving the island in an unroaded condition.

With the foregoing comments I hope it's clear how profoundly the place in which I live has colored my thinking about that place. I am a part of that place and it is a part of me. I have an emotional stake in this place I've called home. That stake is apparently not shared by many others who have immigrated here. It's an emotional stake apparently unrecognized even by some who were born and/or grew up here.

Thank you.

Sincerely,
Mike Salleg



GATEWAY FOREST PRODUCTS

January 24, 2001

TO: House Resources Committee

RE: GFP Testimony supporting House Joint Resolution No. 6

Madam Chairman and distinguished Committee members:

My name is Cliff Skillings and I am testifying today on behalf of Gateway Forest Products and its 149 full time employees, urging you to support HJR 6 and seek expedited passage of this important Resolution.

Gateway Forest Products is a company of full time, year round employees operating a production Sawmill, a veneer mill, an operational sort yard and an industrial complex. Our mission is to provide a manufacturing process that best utilizes the lower quality sawlog from the Tongass and adds to the new integrated independent wood processing industry in Southeast. We are active participants in the Forest Service's independent/SBA timber sale program and rely on its continued existence at a level that supports not only our mill, but also the other independent wood products facilities located in Southeast.

The Clinton Roadless Initiative fails to recognize the fact that significant management initiatives have been applied to the Tongass. These include the Alaska National Interest Lands Act (ANILCA), the Tongass Timber Reform Act (TTRA) and continuously updated versions of the Tongass Land Management Plan (TLMP). Every one of these received a high level of commitment from regional Department of Agriculture employees, local citizens and time commitments from the United States Congress relative to ratification. In the 8 years of the Clinton Administration, Southeast Alaska has seen an ASQ that dropped from 550 million board feet (mmbf) to 267 mmbf (1997 TLMP ROD) to 187 mmbf (1999 TLMP Lyons ROD) and the loss of two production pulp mills and various independent sawmills.

This latest initiative offers no science but rather an emotional plea from national special interest groups and legacy opportunity for an outgoing Administration. You have heard the best probable numbers should this Initiative be applied to the Tongass: 50 mmbf board foot maximum harvest, further decrease in the manufacturing base in the region, etc. All of this is correct. Our present industry of 7 small independent sawmills will surely be decreased to two with implementation. Our veneer mill, although being able to

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907-247-8660 (Fax)

MANUFACTURING
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907-228-0126
907-228-7824 (Fax)

**GFP Testimony on HJR 6
House Resources 01/24/01**

run on one shift in this scenario, will do so at the cost of our sawmill that may at best operate on a part time basis if the supply is available.

The Tongass is fully capable of supporting a viable timber manufacturing industry to the ASQ stated in the 1997 TLMP decision and then condoned by the Governor that same year. This ASQ decision of 267 mmbf provides a level of harvest that maintains year round, family supporting jobs, healthy local economies and an industry that has the ability to plan ahead for operations and make investments in manufacturing processes.

Under present land management plans and historical legislative actions, areas identified as environmentally sensitive are protected. In actuality, the industry is already limited as to areas it can access and the quality of timber that can be extracted. Numerous areas that are available for harvest and have high volume/quality timber are inaccessible due to Habitat Conservation Areas (HCA) set around the profitable timber, giving industry access to the lower quality timber and allowing the higher volume HCA classified stands to blow down in these small, exclusive set asides.

The Roadless Initiative also ties the hands of land managers in the future relative to forest practices to improve forest health and denies access of our resource rich region to those visitors who may be bound by physical limitations and wish to see it first hand.

In closing, I do not believe that a "majority of Alaskan's" support this action as you may hear in opposing testimony. Local representation is hardly met by visitors who may sign a prewritten post card after being coerced into signing. Significant locals submitted letters and memos of opposition to the Clinton Administration relative to this Initiative and I do not believe that one can base the opinion of the region by those who chose to stand at microphone.

Gateway Forest Products and the timber industry of Southeast Alaska can ill afford to be subject to additional inaccessibility to the resource due to management decisions based on emotional appeals over sound science. We adamantly support your actions to ratify HJR6, opposing the Roadless Initiative and supporting the Governors litigative efforts, and hope that you do so in an expeditious manner.

**Testimony of Loren Gerhard, Executive Director, Southeast Conference
House Resources Committee 1/24/01**

I will speak mainly to the issues in the Tongass National Forest, as those are the ones I am most familiar with, as our organization focuses on issues in Southeast Alaska, although some of this applies to the Chugach National Forest as well. Southeast Conference and the Southeast Conference of Mayors are very concerned with the negative impacts the ex president's action will have on our regional economy. We are still trying to deal with the impacts from the dramatic 75% decline in the timber industry occasioned by the Tongass Land Management Process. The future impacts of the Roadless designation, if it remains intact, will deal a death blow to that once significant portion of our regional economic base.

Over 96% of the total area of the Tongass National Forest was protected from further development before the Roadless proposal. The Roadless designation reduces available timber harvest on The Tongass National Forest by 2/3rds, to an amount which cannot even support the single veneer plant in Ketchikan, a valiant effort by business and the community of Ketchikan to salvage some kind of timber industry there. There are twelve sawmills operating in Southeast Alaska, all under a cloud of unknown future harvest levels. If this administrative action stands, 2/3rds of them will be gone in 5 years. This action will cost the region another 1000 jobs, direct and indirect. The large multinational timber companies are gone, what we are talking about now are Alaskans doing business in Alaska, and they will be put out of work by this action. The environmental advocates asked for a smaller scale, sustainable level of harvest, supporting a scaled back, value added processing industry, and that's what they got. The Roads ban goes way beyond that to an almost non existent industry, way below the known thresholds of sustainability.

The directive is an affront to the legal process mandated in federal law to manage the national forests. It ignores the National Forest Management Act, the law that mandated the Tongass Land Management Plan, which has been in process for over 10 years with 13 million dollars spent on it. The roads ban is the crowning achievement of an administration determined to lock up lands without the consent or involvement of the U.S. Congress.

Advocates for the roads ban reference heavy support in Alaska for this proposal, citing percentages of attendees at public meetings held in the state

last summer. The Forest Service never measured those percentages, they are self serving estimates by the people in environmental advocacy organizations that packed these meetings with their supporters. There was an all out campaign last summer across the country, with millions of dollars spent on full page ads in big city newspapers, and millions of prepared post cards, handed out on street corners and in shopping malls to people to send to the white house. It was a well executed effort to create the illusion of broad support across the country, which has never really been proven. In fact, when the directive was signed, an msnbc live poll indicated 53% of respondents were opposed to the president's plan. None of these measures are scientifically valid, and the point is that forest management is mandated by law to be undertaken by a more scientific process, less influenced by mass media public opinion manipulation.

The Roadless EIS clearly shows that the majority of Alaskans do not favor this designation. There are multiple resolutions in Volume 4 from communities all around the state opposing it. You may have some of them in your packet, and I can provide at least 10 resolutions from Southeast communities. It is totally appropriate for the Legislature to go on record opposing this regulatory end run by a lame duck president, seeking to build his legacy. It is yet another example of federal officials taking liberties with people's lives thousands of miles from the beltway, with no regard to the economic consequences or for the process of law. Undersecretary of Agriculture Jim Lyons told us in the Southeast Conference annual meeting in Sitka in fall of 1999, that the resolution of appeals to the 1999 Record of Decision was the final action this administration would take "to provide some certainty with regard to future uses of the Tongass". A month later, Clinton launched the roadless process. 4 times over in the last 20 years starting with ANILCA, the Federal government has promised us "no more" and every promise has been broken. We need to get the message back to Washington that enough is enough.

We applaud the Governor's action in pursuing legal remedies to this injustice, and urge the Legislature to support him in that effort. The former president has no right to ignore laws on the books dealing with forest management, and this directive should be scrapped. Your unequivocal support will help in that effort.

Thank you for the opportunity to speak to this, and I welcome any questions.

**Alaska State Legislature
House Resources Committee**

**Public Testimony On HJR 6
January 24, 2001**

ROADLESS AREAS

Thank you for the opportunity to testify on Resolution HJR 6. For more than two decades, Alaskans have been held to a separate standard from the other 49 states regarding the way the Federal Government has approached the management of lands in Alaska. Each time Alaskans and the Federal agencies have reached an agreement on land management policies in our National Forests, we've been told, "This is it. There will be no more withdrawal of lands". Recently, I served with fourteen other Alaskans on Governor Knowles Timber Task Force. At that time, former Secretary of Agriculture Dan Glickman told the Governor and our task force that the 1997 record of decision should be viewed as a conclusive decision after spending \$13 million and taking eleven years to revise the Tongass Land Use Plan. But as we all know, months later Undersecretary Lyons made wide sweeping changes to the Record Of Decision with no input from the public. Reasonable Alaskans were irked because certain selfish federal bureaucrats had duped us again. At the same time, the Roadless proposal for our national forests was being evaluated across the nation. Alaskans were told both the Tongass and Chugach would be exempt from inclusion because land use plans had just been completed. We know the rest of the story. Not only are we included, but as late as this past December, the effective date was to be the year 2004, but in the end, we were included with the same effective date and the other national forests. This is not a roadless policy for the Tongass. This can only be described as a **dead end** road policy. It is a **dead end** road to the sustainability of a viable wood fiber industry in Alaska. This presidential order brings a **dead end** road to access routes for hydro sites and power line corridors. It is a **dead end** road for funding for local schools that would have come from future timber sales receipts. It is a **dead end** road for entrance into watersheds to access public drinking water systems. It is a **dead end** road for hard surface linkage of our cities and towns. It is a **dead end** road for employment opportunities and further strangles local economies by forcing families to move on to seek other jobs – usually in a completely different field. Sadly and most important, this latest effort is a **dead end**

road for integrity and commitment made to Alaskans by the federal government. When there is no longer any trust in what our federal officials do and say, we are fraying the cords that bind democracy together.

The Governor has every reason to be outraged at this eleventh hour decision. And so should every reasonable Alaskan. The former President's Roadless decision violates numerous federal laws and I trust the Attorney General and other groups will be successful in quickly overturning this action in the courts. It is time for Alaskans to put up a **Dead End** sign to the heavy handed, selfishly motivated and non-involvement in the decision making process by our Federal government bureaucrats. I support the adoption of HJR 6 and commend the legislature for taking a strong stand opposing the Road less policy in Alaska.

However, please allow me to take another minute of your time because the Alaska timber industry desperately needs more legislative help than just the adoption of HJR 6. We are short on resources for fighting the legal battles that are associated with the environmental challenges brought by the well-healed environmental community. In addition, one of the biggest requirements we have is a current and objective report on the supply and demand for Alaska's wood fiber. To be really meaningful, this report must be expanded beyond the typical federal report of industry capacity and annual production. Other independent reports have stated that there is unlimited demand for Alaska type wood products. The constraint is the supply of timber from National Forest Land. For the past decade, these federal reports always conclude that production of manufactured wood products is declining and thus the federal supply of timber from the Tongass and Chugach should be further reduced. When USFS management sets annual harvest volumes using these incomplete reports, the outcome can best be described as sending the industry into a death spiral. We need a fresh in depth look from the state's perspective at the impacts of a shrinking forest products industry upon Alaska's citizens and communities. We must focus on the diminishing opportunity for jobs and the eroding ability for these communities to sustain their local economies. It is a very serious matter and time is of the essence to put forth the real facts about Alaska's remaining wood fiber industry. Thank you for the opportunity to testify this afternoon. I would be happy to answer any questions you may have.

Excerpt from US Forest Service New Release
+ Fact sheet on Roadless Rule 1/4/01

Alaska Roadless Conservation Rule Fact Sheet

page 2



We believe that the Southeast Alaska Electrical Intertie may be built as long as a road is not needed. Recreation and tourism developments that do not require roads could be developed.

“Timber may be cut, sold or removed when appropriate for personal or administrative use (such as firewood cutting) or to implement a management activity not prohibited by the rule (such as building a power line).”

Job Effects: In the long-term (after 5 years), the FEIS estimates that for the private sector, 370 direct timber jobs and 370 indirect jobs on the Tongass National Forest could be affected. It also estimates that 52 road construction jobs could be affected after 5 years and 104 indirectly related to road construction.

We do not know how the new President might influence the decision on the Final Rule. Congress does have oversight authority on new regulations, and within a given time period could vote to over turn a rule, subject to Presidential approval.

We do not know the amount of timber available from land outside the Tongass National Forest that could support the local mills. Both the State Forester and the local Native Corporations could supply estimates.

.....

Dick Koos

**Alaska State Legislature
House Resources Committee**

**Public Testimony On HJR 6
January 24,2001**

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Photo By Neal & M.J. Miehler

LOCKOUTGATE CLINTON/GORE'S PUBLIC LANDS SCANDAL BY JAMES NORELL

Hunting Vehicles



HARDWARE



Gear & Gadgets

product review

LockoutGate Clinton/Gore Public Lands Scandal



We are a nation on wheels, and for the vast majority of us who hunt, getting there involves vehicles, especially if we hunt public lands. And vehicles move on roads. No roads; no access; no hunting. Simple enough.

In the waning hours of the Clinton/Gore Administration up to 60 million acres of now accessible prime hunting lands across the nation will become a vast quasi-wilderness-

where ultimately the only way to get there will be on foot, and then under strict government control. This action is being decreed through a series of executive edicts that totally bypass the Congress and violate virtually all Federal "sunshine laws" that require openness in government.

This is what the media calls an "environmental legacy," and it will all happen, step by step, under the benign-sounding heading, "roadless area initiative."

Perhaps the greatest threat to American hunters is not just in the denial of access, it is in the arrogant, dictatorial process that would physically remove the peoples' ability to use the peoples' land. This is raw power seized sleight-of-hand by an insider group of government officials, special interests, and radical environmental lobbyists meeting in secret. It is the work of the friends of Al Gore. The vice president is calling the shots.

Looking at the experience with the National Wilderness System-where all vehicular access and even "temporary" roads are totally banned--U.S. Sen. Orrin Hatch (R-UT)--warned of what is coming in the so-called roadless initiative: "The Forest Service acknowledges that only two percent of recreationalists make use of the 35 million acres of existing wilderness. The other 98 percent of the public who use our forests will lose access to an additional 40 million acres, so that the elite two percent will have sole access"

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The American HUNTER ONLINE MAGAZINE

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LOCKOUTGATE CLINTON/GORE'S PUBLIC-LANDS SCANDAL BY JAMES NORELL

Hunting Vehicles



HARDWARE



Gear & Gadgets

product reviews

Support for all this has come in a letter to President Clinton from U.S. Sen. Barbara Boxer (D-CA) and others well known to anyone who fears losing their firearms rights--Charles Schumer, Frank Lautenberg, Teddy Kennedy, Robert Torricelli, and Joseph Lieberman--in which they call the roadless lockdown an "an excellent first step." Sound familiar?

Between the Clinton/Gore machine and the environmental lobby, this is orchestrated chaos where the creator of chaos is the only one who knows what's happening. Over just five months, the White House, through the Forest Service, proposed a blitz of regulatory actions that will alter access to what traditionally have been open, free public land. Among them: President Clinton's 18-month moratorium on national forest road construction and "reconstruction." In areas where roads don't survive tough winters, that translates into no access. But this policy does more than close roads by neglect, it also plows under existing roads.

And it's been largely done by sleight of hand because many "roads" they are destroying at an alarming rate aren't roads at all; they are "unroads." In Clinton/Gore-speak an "unroaded area" is one that does not contain "classified roads," in turn, defined as roads "constructed or maintained for long-term highway vehicle use." For anyone who has traveled any backcountry Forest Service road, you can understand the coming loss. Certainly, it cuts out most of the tens of thousands of miles of former "timber access" roads used by hunters to get to favorite backcountry jumping-off points.

Under this policy, road maintenance/construction would be based only on "compelling need." Remember, those are the same words folks like Dianne Feinstein use for an individuals' show-cause for owning firearms. Compelling need. Don't even think for a second that hunter access would ever prove to be "compelling need" to the Al Gore crowd.

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Ann

**House Joint Resolution 6
Opposing the Roadless Rule**

Testimony before the Alaska House Resources Committee, January 24, 2001

Mr. Chairman, members of the committee, thank you for the opportunity to testify today. For the record, my name is Rachael Moreland, and I am the Associate Director of the Alaska Forest Association. The Alaska Forest Association (AFA) is the forest products industry trade association for Alaska and we represent about 90 small businesses in the forest products sector.

The Alaska Forest Association strongly supports HJR 6 and we urge the committee to move it to the floor as soon as possible. As you already know, the timber industry, and in turn the communities of Southeast Alaska, have already been badly damaged by imposed federal actions. Further withdrawal of roadless areas and prohibition of entry into those areas will have a detrimental, perhaps even a fatal effect on the small remaining sawmill industry.

The net effect of the roadless area withdrawal on the Tongass National Forest is particularly drastic. While the Forest Service touts the net impact of the Roadless rule to be a mere 2 percent of the nation's land base; the rule effects 31 percent of all national forest lands. In Alaska, the Roadless rule withdraws an additional 67 percent, or 15 million acres, from the Tongass and Chugach National Forests.

In addition to severely restricting roaded access to Alaska's National Forests, the Roadless rule reduces the land available for scheduled timber sales on the Tongass from 576,000 acres to approximately 311,000 acres. This is an extremely small parcel of land which is certainly not large enough to support the existing industry, much less the re-development of a "sustainable, value-added" forest products industry.

With respect to the Chugach National Forest, 99 percent of that forest is roadless. The Roadless rule prohibits all new transportation infrastructure in the Chugach without the benefit of a public planning process specific to that forest. The Chugach Land and Resource Management Plan is presently undergoing revision under terms set forth in the National Forest Management Act of 1976. AFA and several other user groups have been actively involved in the Chugach planning process. We believe that process, and similar processes provided for by law (namely the NFMA), are the proper venues for land use allocations in our national forests.

Furthermore, inclusion of Alaska's national forests – the Tongass & the Chugach – in the roadless rule violates the "no more" clause of the Alaska National Interest Lands Conservation Act. The rule is inconsistent with existing forest plans, especially in light of the latest revisions of the Tongass Land Management Plan. HJR 6 correctly states that the roadless rule creates de facto wilderness without Congressional action or approval. The state is correct to demand that the "no more" clause of ANILCA be honored.

Concurrently (actually the day before, January 4), the Forest Service issued new regulations on their Transportation Policy which, when combined with the Roadless rule, creates a one-two punch for management and stewardship for the entire national forest system, not just the roadless areas. They are building a wall around 58.5 million acres with the Roadless rule, and then, with the Transportation policy, making it all but impossible for local land managers to do their jobs. They have made the road building and maintenance procedures intentionally onerous so as to effectively make the remaining national forest lands subject to similar extreme restrictions. These two policies when combined cover every inch of our national forests. The implications of this policy are devastating for the 38 million acres of our national forests at risk to wildfire and the 28 million at risk of insect and disease.

The government's withdrawal of roadless areas is bad for ALL national forests, it is bad for the American public, and is particularly bad for Alaska. There is widespread opposition within Alaska to this Roadless rule and the Alaska Forest Association urges the legislature to join that chorus with a loud voice.

Again, Mr. Chairman and members of the committee, thank you for the opportunity to testify today. I would be happy to answer any questions regarding AFA's support of HJR 6.

22-LS0316C
Luckhaupt
1/24/01

**CS FOR HOUSE JOINT RESOLUTION NO. 6(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY THE HOUSE RESOURCES COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES WILSON, Williams, Hudson, Scalzi, Dyson, James

A RESOLUTION

1 **Relating to opposition to the inclusion of national forests in Alaska within President**
2 **Clinton's Roadless Area Conservation rule and supporting the overturning of this**
3 **inclusion by litigation, by congressional action, or by action of President Bush.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **WHEREAS** the forest products industry has been and continues to be an important
6 economic sector in Alaska that contributes significant employment income to the economy of
7 the state, and, through purchases of timber from National Forest System lands, contributes
8 significant revenue to local communities through the 25 percent revenue sharing provisions of
9 federal law; and

10 **WHEREAS** President Clinton's Roadless Area Conservation rule is contrary to the
11 land management planning process for individual forests established by the National Forest
12 Management Act of 1976 and its implementing regulations; and

13 **WHEREAS** application of President Clinton's Roadless Area Conservation rule to the
14 Tongass and Chugach National Forests designates significant additional acreage as
15 administrative, de facto wilderness areas within Alaska; and

1 **WHEREAS** application of President Clinton's Roadless Area Conservation rule in
2 Alaska is contrary to sec. 708(b)(4), Alaska National Interest Lands Conservation Act
3 (ANILCA), which specifically prohibits another roadless area review and evaluation (RARE)
4 on national forest lands in Alaska for the purpose of setting aside commercial forest land as
5 wilderness; and

6 **WHEREAS** application of President Clinton's Roadless Area Conservation rule in
7 Alaska is contrary to sec. 1326(a) of ANILCA, which prohibits the withdrawal of more than
8 5,000 acres, in the aggregate, of public lands within Alaska without the consent of the
9 Congress; and

10 **WHEREAS** application of President Clinton's Roadless Area Conservation rule in
11 Alaska is contrary to sec. 1326(b) of ANILCA, which expressly prohibits studies of public
12 lands for the purpose of considering the establishment of new conservation system units,
13 recreation areas, national conservation areas, or for related or similar purposes; and

14 **WHEREAS** the Tongass Timber Reform Act of 1990 and other Congressional and
15 administrative actions have withdrawn more than 97 percent of the Tongass National Forest
16 from availability for timber harvest and other resource development opportunities; and

17 **WHEREAS** the 1997 and 1999 revisions of the Tongass Land Management Plan
18 (TLMP) further reduced the available commercial forest lands in the Tongass to 576,000
19 acres out of nearly 6,000,000 suitable acres across the forest; and

20 **WHEREAS** the available commercial forest lands remaining after the 1999 TLMP
21 amendments are insufficient to satisfy the raw material needs of Southeast Alaska's forest
22 products manufacturing industry, given the plan's maximum annual economic offering level
23 of 153,000,000 board feet; and

24 **WHEREAS**, by applying the roadless policy to the Tongass, the federal government
25 has further reduced the available commercial forest lands in the Tongass to less than half the
26 currently available acreage and will further reduce the maximum annual offering level to less
27 than 50,000,000 board feet; and

28 **WHEREAS** application of President Clinton's Roadless Area Conservation rule to the
29 Tongass, together with Under Secretary Lyons' 1999 unilateral TLMP amendment, nullifies
30 the results of the United States Forest Service's 1986-1997 planning process in the Tongass,
31 which cost the taxpayers more than \$13,000,000; and

1 **WHEREAS** application of President Clinton's Roadless Area Conservation rule to the
2 Tongass, together with Under Secretary Lyons' 1999 unilateral TLMP amendment, will
3 further destabilize the already unstable timber-based economy of Southeast Alaska by forcing
4 the closure of most of the remaining forest products manufacturing facilities, resulting in loss
5 of employment and associated negative socioeconomic impacts within timber-dependent
6 communities and the Southeast Alaska region; and

7 **WHEREAS** the Chugach National Forest has spent three years and several million
8 dollars conducting a revision to its land management plan and is within a few months of
9 issuing the Final Environmental Impact Statement for that plan, and

10 **WHEREAS** a wide range of interests from the Alaska public has been involved in the
11 Chugach land management planning process, working to develop a range of plan alternatives
12 that respond to the public's interests, needs, and concerns, and President Clinton's Roadless
13 Area Conservation rule will render that involvement and expense pointless and undermine
14 public confidence in the planning process, and

15 **WHEREAS** the public, through the Chugach Land Management Plan revision
16 scoping process, has expressed deep concern that the approximately 130,000 acres of the
17 Chugach National Forest suffering from spruce bark beetle damage must be managed for the
18 restoration of a green, healthy forest, and President Clinton's Roadless Area Conservation rule
19 prevents access required by land managers to accomplish that restoration work; and

20 **WHEREAS** application of President Clinton's Roadless Area Conservation rule will
21 render it virtually impossible for inholders and adjacent landowners, particularly families and
22 small business owners, to obtain the access to their property that was promised them in
23 ANILCA;

24 **BE IT RESOLVED** that the Alaska State Legislature strongly opposes the Roadless
25 Area Conservation rule, and particularly opposes the illegal inclusion of the Tongass and
26 Chugach National Forests in the Roadless Area Conservation rule; and be it

27 **FURTHER RESOLVED** that the Alaska State Legislature fully supports Governor
28 Knowles' decision to litigate against the application of the Roadless Area Conservation rule to
29 National Forest System lands in Alaska; and be it

30 **FURTHER RESOLVED** that the Alaska State Legislature urges members of the
31 Alaska delegation in Congress to use all available means to set aside the Roadless Area

1 Conservation rule through Congressional action; and be it

2 **FURTHER RESOLVED** that the Alaska State Legislature urges President George
3 W. Bush to overturn the classification and inclusion of the national forests located inside
4 Alaska's boundaries.

5 **COPIES** of this resolution shall be sent to the Honorable George W. Bush, President
6 of the United States; the Honorable Ann Veneman, United States Secretary of Agriculture;
7 Mike Dombeck, Chief of the United States Forest Service, United States Department of
8 Agriculture; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S.
9 Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska
10 delegation in Congress.

Introduced by: Mayor
Date: 01/23/01
Action: Adopted as Amended
Vote: 7 Yes, 2 No, 0 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2001-012**

**A RESOLUTION SUPPORTING THE ALASKA LEGISLATURE'S HOUSE JOINT
RESOLUTION NO. 6 OVERTURNING THE ROADLESS AREA CONSERVATION
RULE IN THE TONGASS AND CHUGACH NATIONAL FORESTS**

WHEREAS, the Kenai Peninsula Borough Assembly passed three resolutions in the past three months dealing with the Chugach National Forest Revised Land and Resource Management Plan; and President Clinton recently adopted the Roadless Area Conservation rule in the Tongass and Chugach National Forests and the Alaska State Legislature is considering House Joint Resolution 6 opposing this rule; and

WHEREAS, in Resolution 2000-108, adopted November 21, 2000 the Kenai Peninsula Borough supports continued public access to the Chugach National Forest for all recreational users and encourages the Federal Government to upgrade and improve trails and parking lots to increase public access; and a roadless policy will discourage the development of improved public access to public lands which will cause increased congestion amongst various user groups creating unnecessary and avoidable conflicts; and

WHEREAS, the Kenai Peninsula Borough Assembly passed Resolution 2000-112 on December 12, 2000 which supports timber harvest on the hundreds of thousand of acres of the Chugach National Forest within the Seward Ranger District which has been infested by the spruce bark beetle; and the Revised Land and Resource Management Plan for the Chugach National Forest contains only minimal provisions for the mitigation, harvesting, and reforestation of the hundreds of thousands of acres of trees impacted by the spruce bark beetle infestation within the 5.45 million acre Chugach National Forest; and a roadless policy will further affect the economic loss of millions of board feet of potentially valuable and already dead spruce trees which could otherwise have provided a vital part of the economic foundation for residents and businesses of the borough; and

WHEREAS, a roadless policy will effectively eliminate the feasibility of exploration for and development of new and existing mineral deposits that lie within the Chugach National Forest; and KPB Resolution 2000-112 also supports the adoption of provisions within the Proposed Revised Land and Resource Management Plan that will provide for new road access to newly discovered and existing mineral deposits that will allow for viable commercial and recreational ~~minerals~~ extraction; and

WHEREAS, the Kenai Peninsula Borough Assembly in passing Resolution 2001-005 on January 9, 2001 expressed its support of a complete and thorough legal review by the Office of General Counsel for the United States Forest Service or other appropriate agency to provide a legal determination that the Proposed Revised Plan is consistent with the provisions of the Alaska National Interest Lands Conservation Act and other appropriate federal laws;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Assembly strongly supports the passage of HJR 6 by the Alaska State Legislature for all the reasons stated, but in particular for the portions of the resolution that pertain to the Chugach National Forest.

SECTION 2. That a copy of this resolution be sent to the Kenai Peninsula Borough State Legislative Delegation, the Governor of the State of Alaska, the Alaska Congressional Delegation, and the United States Forest Service.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 23RD DAY OF JANUARY, 2001.



Timothy Navarre, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk





GATEWAY FOREST PRODUCTS

January 24, 2001

TO: House Resources Committee

RE: GFP Testimony supporting House Joint Resolution No. 6

Madam Chairman and distinguished Committee members:

My name is Cliff Skillings and I am testifying today on behalf of Gateway Forest Products and its 149 full time employees, urging you to support HJR 6 and seek expedited passage of this important Resolution.

Gateway Forest Products is a company of full time, year round employees operating a production Sawmill, a veneer mill, an operational sort yard and an industrial complex. Our mission is to provide a manufacturing process that best utilizes the lower quality sawlog from the Tongass and adds to the new integrated independent wood processing industry in Southeast. We are active participants in the Forest Service's independent/SBA timber sale program and rely on its continued existence at a level that supports not only our mill, but also the other independent wood products facilities located in Southeast.

The Clinton Roadless Initiative fails to recognize the fact that significant management initiatives have been applied to the Tongass. These include the Alaska National Interest Lands Act (ANILCA), the Tongass Timber Reform Act (TTRA) and continuously updated versions of the Tongass Land Management Plan (TLMP). Every one of these received a high level of commitment from regional Department of Agriculture employees, local citizens and time commitments from the United States Congress relative to ratification. In the 8 years of the Clinton Administration, Southeast Alaska has seen an ASQ that dropped from 550 million board feet (mmbf) to 267 mmbf (1997 TLMP ROD) to 187 mmbf (1999 TLMP Lyons ROD) and the loss of two production pulp mills and various independent sawmills.

This latest initiative offers no science but rather an emotional plea from national special interest groups and legacy opportunity for an outgoing Administration. You have heard the best probable numbers should this Initiative be applied to the Tongass: 50 mmbf board foot maximum harvest, further decrease in the manufacturing base in the region, etc. All of this is correct. Our present industry of 7 small independent sawmills will surely be decreased to two with implementation. Our veneer mill, although being able to

ADMINISTRATION
P.O. BOX 779
Ward Cove, Alaska 99928
907-247-1647
907-247-1646 (Fax)

INDUSTRIAL/MARINE
P.O. BOX 779
Ward Cove, Alaska 99928
907-247-1651
907-247-8660 (Fax)

MANUFACTURING
P.O. BOX 779
Ward Cove, Alaska 99928
907-228-0128
907-228-7824 (Fax)

**GFP Testimony on HJR 6
House Resources 01/24/01**

run on one shift in this scenario, will do so at the cost of our sawmill that may at best operate on a part time basis if the supply is available.

The Tongass is fully capable of supporting a viable timber manufacturing industry to the ASQ stated in the 1997 TLMP decision and then condoned by the Governor that same year. This ASQ decision of 267 mmbf provides a level of harvest that maintains year round, family supporting jobs, healthy local economies and an industry that has the ability to plan ahead for operations and make investments in manufacturing processes.

Under present land management plans and historical legislative actions, areas identified as environmentally sensitive are protected. In actuality, the industry is already limited as to areas it can access and the quality of timber that can be extracted. Numerous areas that are available for harvest and have high volume/quality timber are inaccessible due to Habitat Conservation Areas (HCA) set around the profitable timber, giving industry access to the lower quality timber and allowing the higher volume HCA classified stands to blow down in these small, exclusive set asides.

The Roadless Initiative also ties the hands of land managers in the future relative to forest practices to improve forest health and denies access of our resource rich region to those visitors who may be bound by physical limitations and wish to see it first hand.

In closing, I do not believe that a "majority of Alaskan's" support this action as you may hear in opposing testimony. Local representation is hardly met by visitors who may sign a prewritten post card after being coerced into signing. Significant locals submitted letters and memos of opposition to the Clinton Administration relative to this Initiative and I do not believe that one can base the opinion of the region by those who chose to stand at microphone.

Gateway Forest Products and the timber industry of Southeast Alaska can ill afford to be subject to additional inaccessibility to the resource due to management decisions based on emotional appeals over sound science. We adamantly support your actions to ratify HJR6, opposing the Roadless Initiative and supporting the Governors litigative efforts, and hope that you do so in an expeditious manner.

**Testimony of Loren Gerhard, Executive Director, Southeast Conference
House Resources Committee 1/24/01**

I will speak mainly to the issues in the Tongass National Forest, as those are the ones I am most familiar with, as our organization focuses on issues in Southeast Alaska, although some of this applies to the Chugach National Forest as well. Southeast Conference and the Southeast Conference of Mayors are very concerned with the negative impacts the ex president's action will have on our regional economy. We are still trying to deal with the impacts from the dramatic 75% decline in the timber industry occasioned by the Tongass Land Management Process. The future impacts of the Roadless designation, if it remains intact, will deal a death blow to that once significant portion of our regional economic base.

Over 96% of the total area of the Tongass National Forest was protected from further development before the Roadless proposal. The Roadless designation reduces available timber harvest on The Tongass National Forest by 2/3rds, to an amount which cannot even support the single veneer plant in Ketchikan, a valiant effort by business and the community of Ketchikan to salvage some kind of timber industry there. There are twelve sawmills operating in Southeast Alaska, all under a cloud of unknown future harvest levels. If this administrative action stands, 2/3rds of them will be gone in 5 years. This action will cost the region another 1000 jobs, direct and indirect. The large multinational timber companies are gone, what we are talking about now are Alaskans doing business in Alaska, and they will be put out of work by this action. The environmental advocates asked for a smaller scale, sustainable level of harvest, supporting a scaled back, value added processing industry, and that's what they got. The Roads ban goes way beyond that to an almost non existent industry, way below the known thresholds of sustainability.

The directive is an affront to the legal process mandated in federal law to manage the national forests. It ignores the National Forest Management Act, the law that mandated the Tongass Land Management Plan, which has been in process for over 10 years with 13 million dollars spent on it. The roads ban is the crowning achievement of an administration determined to lock up lands without the consent or involvement of the U.S. Congress.

Advocates for the roads ban reference heavy support in Alaska for this proposal, citing percentages of attendees at public meetings held in the state

last summer. The Forest Service never measured those percentages, they are self serving estimates by the people in environmental advocacy organizations that packed these meetings with their supporters. There was an all out campaign last summer across the country, with millions of dollars spent on full page ads in big city newspapers, and millions of prepared post cards, handed out on street corners and in shopping malls to people to send to the white house. It was a well executed effort to create the illusion of broad support across the country, which has never really been proven. In fact, when the directive was signed, an msnbc live poll indicated 53% of respondents were opposed to the president's plan. None of these measures are scientifically valid, and the point is that forest management is mandated by law to be undertaken by a more scientific process, less influenced by mass media public opinion manipulation.

The Roadless EIS clearly shows that the majority of Alaskans do not favor this designation. There are multiple resolutions in Volume 4 from communities all around the state opposing it. You may have some of them in your packet, and I can provide at least 10 resolutions from Southeast communities. It is totally appropriate for the Legislature to go on record opposing this regulatory end run by a lame duck president, seeking to build his legacy. It is yet another example of federal officials taking liberties with people's lives thousands of miles from the beltway, with no regard to the economic consequences or for the process of law. Undersecretary of Agriculture Jim Lyons told us in the Southeast Conference annual meeting in Sitka in fall of 1999, that the resolution of appeals to the 1999 Record of Decision was the final action this administration would take "to provide some certainty with regard to future uses of the Tongass". A month later, Clinton launched the roadless process. 4 times over in the last 20 years starting with ANILCA, the Federal government has promised us "no more" and every promise has been broken. We need to get the message back to Washington that enough is enough.

We applaud the Governor's action in pursuing legal remedies to this injustice, and urge the Legislature to support him in that effort. The former president has no right to ignore laws on the books dealing with forest management, and this directive should be scrapped. Your unequivocal support will help in that effort.

Thank you for the opportunity to speak to this, and I welcome any questions.

22-LS0316\C
Luckhaupt
1/24/01

**CS FOR HOUSE JOINT RESOLUTION NO. 6(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY THE HOUSE RESOURCES COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES WILSON, Williams, Hudson, Scalzi, Dyson, James

the former
~~_____~~

A RESOLUTION

1 **Relating to opposition to the inclusion of national forests in Alaska within/President**
2 **Clinton's Roadless Area Conservation rule and supporting the overturning of this**
3 **inclusion by litigation, by congressional action, or by action of President Bush.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **WHEREAS** the forest products industry has been and continues to be an important
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7 the state, and, through purchases of timber from National Forest System lands, contributes
8 significant revenue to local communities through the 25 percent revenue sharing provisions of
9 federal law; and

10 **WHEREAS** ^{the} President ~~Clinton's~~ Roadless Area Conservation rule is contrary to the
11 land management planning process for individual forests established by the National Forest
12 Management Act of 1976 and its implementing regulations; and

13 **WHEREAS** ^{the} application of President ~~Clinton's~~ Roadless Area Conservation rule to the
14 Tongass and Chugach National Forests designates significant additional acreage as
15 administrative, de facto wilderness areas within Alaska; and

1 WHEREAS application of President ~~Clinton's~~^{the} Roadless Area Conservation rule in
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3 (ANILCA), which specifically prohibits another roadless area review and evaluation (RARE)
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14 WHEREAS the Tongass Timber Reform Act of 1990 and other Congressional and
15 administrative actions have withdrawn more than 97 percent of the Tongass National Forest
16 from availability for timber harvest and other resource development opportunities; and

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19 acres out of nearly 6,000,000 suitable acres across the forest; and

20 WHEREAS the available commercial forest lands remaining after the 1999 TLMP
21 amendments are insufficient to satisfy the raw material needs of Southeast Alaska's forest
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24 WHEREAS, by applying the roadless policy to the Tongass, the federal government
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30 the results of the United States Forest Service's 1986-1997 planning process in the Tongass,
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4 the closure of most of the remaining forest products manufacturing facilities, resulting in loss
5 of employment and associated negative socioeconomic impacts within timber-dependent
6 communities and the Southeast Alaska region; and

7 **WHEREAS** the Chugach National Forest has spent three years and several million
8 dollars conducting a revision to its land management plan and is within a few months of
9 issuing the Final Environmental Impact Statement for that plan; and

10 **WHEREAS** a wide range of interests from the Alaska public has been involved in the
11 Chugach land management planning process, working to develop a range of plan alternatives
12 that respond to the public's interests, needs, and concerns, and President Clinton's Roadless
13 Area Conservation rule will render that involvement and expense pointless and undermine
14 public confidence in the planning process; and

15 **WHEREAS** the public, through the Chugach Land Management Plan revision
16 scoping process, has expressed deep concern that the approximately 130,000 acres of the
17 Chugach National Forest suffering from spruce bark beetle damage must be managed for the
18 restoration of a green, healthy forest, and President Clinton's Roadless Area Conservation rule
19 prevents access required by land managers to accomplish that restoration work; and

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23 ANILCA;

24 **BE IT RESOLVED** that the Alaska State Legislature strongly opposes the Roadless
25 Area Conservation rule, and particularly opposes the illegal inclusion of the Tongass and
26 Chugach National Forests in the Roadless Area Conservation rule; and be it

27 **FURTHER RESOLVED** that the Alaska State Legislature fully supports Governor
28 Knowles' decision to litigate against the application of the Roadless Area Conservation rule to
29 National Forest System lands in Alaska; and be it

30 **FURTHER RESOLVED** that the Alaska State Legislature urges members of the
31 Alaska delegation in Congress to use all available means to set aside the Roadless Area

1 Conservation rule through Congressional action; and be it

2 **FURTHER RESOLVED** that the Alaska State Legislature urges President George
3 W. Bush to overturn the classification and inclusion of the national forests located inside
4 Alaska's boundaries.

5 **COPIES** of this resolution shall be sent to the Honorable George W. Bush, President
6 of the United States; the Honorable Ann Veneman, United States Secretary of Agriculture;
7 Mike Dombeck, Chief of the United States Forest Service, United States Department of
8 Agriculture; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S.
9 Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska
10 delegation in Congress.

22-LS0316\C
Luckhaupt
1/24/01

CS FOR HOUSE JOINT RESOLUTION NO. 6(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES WILSON, Williams, Hudson, Scalzi, Dyson, James

A RESOLUTION

1 **Relating to opposition to the inclusion of national forests in Alaska within former President**
2 **Clinton's Roadless Area Conservation rule and supporting the overturning of this**
3 **inclusion by litigation, by congressional action, or by action of President Bush.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **WHEREAS** the forest products industry has been and continues to be an important
6 economic sector in Alaska that contributes significant employment income to the economy of
7 the state, and, through purchases of timber from National Forest System lands, contributes
8 significant revenue to local communities through the 25 percent revenue sharing provisions of
9 federal law; and

10 **WHEREAS** ~~President Clinton's~~ *the add in all 10 following places* Roadless Area Conservation rule is contrary to the
11 land management planning process for individual forests established by the National Forest
12 Management Act of 1976 and its implementing regulations; and

13 **WHEREAS** application of President Clinton's Roadless Area Conservation rule to the
14 Tongass and Chugach National Forests designates significant additional acreage as
15 administrative, de facto wilderness areas within Alaska; and

1 **WHEREAS** application of President Clinton's Roadless Area Conservation rule in
2 Alaska is contrary to sec. 708(b)(4), Alaska National Interest Lands Conservation Act
3 (ANILCA), which specifically prohibits another roadless area review and evaluation (RARE)
4 on national forest lands in Alaska for the purpose of setting aside commercial forest land as
5 wilderness; and

6 **WHEREAS** application of President Clinton's Roadless Area Conservation rule in
7 Alaska is contrary to sec. 1326(a) of ANILCA, which prohibits the withdrawal of more than
8 5,000 acres, in the aggregate, of public lands within Alaska without the consent of the
9 Congress; and

10 **WHEREAS** application of President Clinton's Roadless Area Conservation rule in
11 Alaska is contrary to sec. 1326(b) of ANILCA, which expressly prohibits studies of public
12 lands for the purpose of considering the establishment of new conservation system units,
13 recreation areas, national conservation areas, or for related or similar purposes; and

14 **WHEREAS** the Tongass Timber Reform Act of 1990 and other Congressional and
15 administrative actions have withdrawn more than 97 percent of the Tongass National Forest
16 from availability for timber harvest and other resource development opportunities; and

17 **WHEREAS** the 1997 and 1999 revisions of the Tongass Land Management Plan
18 (TLMP) further reduced the available commercial forest lands in the Tongass to 576,000
19 acres out of nearly 6,000,000 suitable acres across the forest; and

20 **WHEREAS** the available commercial forest lands remaining after the 1999 TLMP
21 amendments are insufficient to satisfy the raw material needs of Southeast Alaska's forest
22 products manufacturing industry, given the plan's maximum annual economic offering level
23 of 153,000,000 board feet; and

24 **WHEREAS**, by applying the roadless policy to the Tongass, the federal government
25 has further reduced the available commercial forest lands in the Tongass to less than half the
26 currently available acreage and will further reduce the maximum annual offering level to less
27 than 50,000,000 board feet; and

28 **WHEREAS** application of President Clinton's Roadless Area Conservation rule to the
29 Tongass, together with Under Secretary Lyons' 1999 unilateral TLMP amendment, nullifies
30 the results of the United States Forest Service's 1986-1997 planning process in the Tongass,
31 which cost the taxpayers more than \$13,000,000; and

1 **WHEREAS** application of President Clinton's Roadless Area Conservation rule to the
2 Tongass, together with Under Secretary Lyons' 1999 unilateral TLMP amendment, will
3 further destabilize the already unstable timber-based economy of Southeast Alaska by forcing
4 the closure of most of the remaining forest products manufacturing facilities, resulting in loss
5 of employment and associated negative socioeconomic impacts within timber-dependent
6 communities and the Southeast Alaska region; and

7 **WHEREAS** the Chugach National Forest has spent three years and several million
8 dollars conducting a revision to its land management plan and is within a few months of
9 issuing the Final Environmental Impact Statement for that plan; and

10 **WHEREAS** a wide range of interests from the Alaska public has been involved in the
11 Chugach land management planning process, working to develop a range of plan alternatives
12 that respond to the public's interests, needs, and concerns, and President Clinton's Roadless
13 Area Conservation rule will render that involvement and expense pointless and undermine
14 public confidence in the planning process; and

15 **WHEREAS** the public, through the Chugach Land Management Plan revision
16 scoping process, has expressed deep concern that the approximately 130,000 acres of the
17 Chugach National Forest suffering from spruce bark beetle damage must be managed for the
18 restoration of a green, healthy forest, and President Clinton's Roadless Area Conservation rule
19 prevents access required by land managers to accomplish that restoration work; and

20 **WHEREAS** application of President Clinton's Roadless Area Conservation rule will
21 render it virtually impossible for inholders and adjacent landowners, particularly families and
22 small business owners, to obtain the access to their property that was promised them in
23 ANILCA;

24 **BE IT RESOLVED** that the Alaska State Legislature strongly opposes the Roadless
25 Area Conservation rule, and particularly opposes the illegal inclusion of the Tongass and
26 Chugach National Forests in the Roadless Area Conservation rule; and be it

27 **FURTHER RESOLVED** that the Alaska State Legislature fully supports Governor
28 Knowles' decision to litigate against the application of the Roadless Area Conservation rule to
29 National Forest System lands in Alaska; and be it

30 **FURTHER RESOLVED** that the Alaska State Legislature urges members of the
31 Alaska delegation in Congress to use all available means to set aside the Roadless Area

1 Conservation rule through Congressional action; and be it

2 **FURTHER RESOLVED** that the Alaska State Legislature urges President George
3 W. Bush to overturn the classification and inclusion of the national forests located inside
4 Alaska's boundaries.

5 **COPIES** of this resolution shall be sent to the Honorable George W. Bush, President
6 of the United States; the Honorable Ann Veneman, United States Secretary of Agriculture;
7 Mike Dombeck, Chief of the United States Forest Service, United States Department of
8 Agriculture; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S.
9 Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska
10 delegation in Congress.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK. 99801-1182

Representative Peggy Wilson

SPONSOR STATEMENT – HJR 6.

This resolution opposes the Clinton Administrations' decision on the Roadless Policy.

On January 5, 2001 then President Clinton announced the final Record of Decision for the roadless policy including the Tongass and Chugach National Forests.

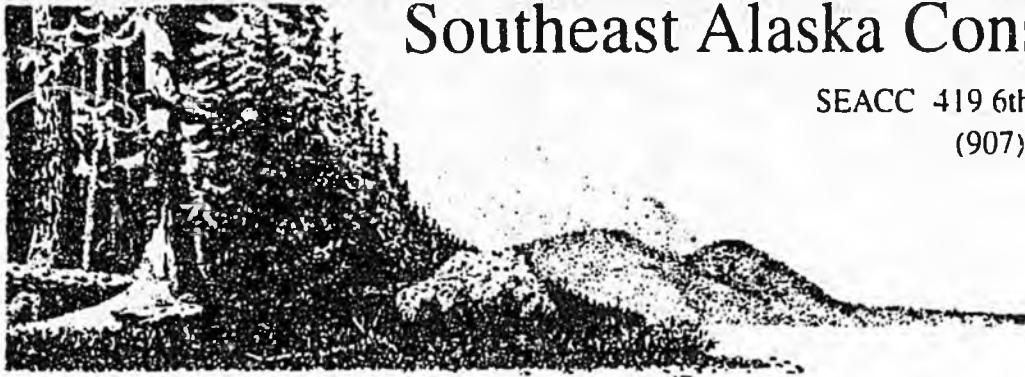
Alaskans from across this state must join forces to overturn the inclusion of Alaska forests within former President Clinton's Roadless Policy.

This presidential action is an affront to all Alaskans and continues their history of breaking promises to Alaskans regarding land management.

This Roadless Policy is in blatant disregard of the processes that have been agreed to. Countless hours, over eleven years and 13 million dollars were spent making revisions to the Tongass Land Management Plan. The Chugach Forest Plan revision process has been underway for over three years requiring considerable investment of time money and resources. Now these processes have been completely disregarded

This Roadless Policy violates the "no-more" clauses of ANILCA and creates approximately 15 million acres of new defacto wilderness within Alaska.

I, like many Alaskans, am vehemently opposed to the inclusion of the Tongass and Chugach National Forests in this Roadless Policy and ask that we work together and support the overturning of this inclusion by litigation, by congressional action or by action of President Bush.



Southeast Alaska Conservation Council

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**STATEMENT OF
KATYA KIRSCH, EXECUTIVE DIRECTOR
SOUTHEAST ALASKA CONSERVATION COUNCIL**

HEARING ON HOUSE JOINT RESOLUTION 6

**BEFORE THE
ALASKA HOUSE RESOURCES COMMITTEE
JANUARY 24, 2001**

Mr. Chairman and Members of the Resources Committee:

My name is Katya Kirsch. I am the Executive Director of the Southeast Alaska Conservation Council (SEACC).

SEACC is a coalition of eighteen volunteer conservation groups in fourteen communities across Southeast Alaska, from Yakutat to Ketchikan. SEACC's individual members include Alaska Natives, subsistence users, commercial and sport fishermen, hunters and guides, tourism and recreation business owners, small timber operators and high value-added wood product manufacturers, as well as concerned citizens from all walks of life. SEACC is dedicated to safeguarding the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources.

I have lived in Southeast—Haines, Juneau, Wrangell, and Ketchikan—for the past 26 years. During this time I have seen many changes—many thousands of acres of clearcuts, and in this last decade, a much more diversified economy, including huge growth in the tourism and recreation industries, as well as new high tech businesses, fishing and much more.

It is time to stop looking backwards to recreate an economy that chews through our landscape for the gain of just one industry sector. Southeast Alaska's largest industries depend on a healthy Tongass National Forest and the renewable forest resources it provides. While employment in the timber industry continues to decline, increases in tourism, recreation, construction, health care and other parts of the service sector continue to march forward. *Alaska Economic Trends* (Jan. 2001). We must keep moving ahead. We need you to have the wisdom to look forward, instead of trying to recreate the economy of past years.

SEACC strongly supports the decision to immediately include the Tongass National Forest in the National Roadless Area Conservation Rule. This decision is not about closing down any of the nearly 5,000 miles of roads that currently exist on the Tongass National Forest. It is about

ALASKA SOCIETY OF AMERICAN FOREST DWELLERS, Point Baker • ALASKANS FOR JUNEAU • CHICHAGOF CONSERVATION COUNCIL, Tenakee
FRIENDS OF BERNERS BAY, Juneau • FRIENDS OF GLACIER BAY, Gustavus • JUNEAU GROUP SIERRA CLUB • LOWER CHATHAM CONSERVATION
SOCIETY, Port Alexander • LYNN CANAL CONSERVATION, Haines • NARROWS CONSERVATION COALITION, Petersburg • PELICAN FORESTRY
COUNCIL • PRINCE OF WALES CONSERVATION LEAGUE, Craig • SITKA CONSERVATION SOCIETY • TONGASS CONSERVATION SOCIETY, Ketchikan
TAKU CONSERVATION SOCIETY, Juneau • WRANGELL RESOURCE COUNCIL • YAKUTAT RESOURCE CONSERVATION COUNCIL

managing these valuable wildlands for multiple uses, such as hunting, fishing, subsistence, recreation, and tourism.

Southeast Alaskans depend upon these roadless areas for food, recreation and income. For example, the policy protects the roadless Farragut Bay. Logging and roading there would likely impact king salmon trolling areas and crab grounds which are very important to Petersburg fishermen, and recreation and tourism businesses.

The Forest Service listened to what the people said. It is time for you to listen also. The fact that the majority of Alaskans, 1.6 million Americans, and the scientific community support full and immediate protection of Tongass roadless areas cannot be overlooked by those who may challenge this decision. The roadless policy is a thoroughly considered administrative rule-making process that afforded the maximum opportunity for public involvement.

The Forest Service held more than 617 public hearings--including 17 in Alaska--that were attended by more than 39,000 Americans. More than 1.6 million comments were received, the vast majority of which supported inclusion of the Tongass and the Chugach in the final rule. Estimates based on eyewitness accounts show that nearly 75 percent of the citizens who testified at public hearings in Southeast Alaska's four (4) largest communities (Juneau, Ketchikan, Sitka, & Petersburg) supported including the Tongass in the Roadless policy. In the 13 hearings held across the region, roughly 60 percent of the Southeast Alaskans who testified supported protecting all Tongass roadless wildlands from commercial logging and roadbuilding. Local citizen support for applying the roadless policy on the Tongass shows that Southeast Alaskans reject the assumption that the recently revised Tongass plan, by itself, will ensure the long-term ecological integrity of our nation's largest national forest. It also reveals a desire for the Tongass to be treated just like any other national forest.

In fact, the best rationale for including the Tongass in the national roadless policy immediately was the very product of implementing the revised Tongass Land Management Plan (TLMP). As required by TLMP, the Forest Service and other federal and state agencies evaluated the ability of existing forest roads to meet TLMP standards for fish passage. The results of this inter-agency effort are shocking and show the legacy of damage caused by roadbuilding on salmon and trout habitat. According to the Tongass Road Condition Survey Report, released by ADF&G in June 2000, two-thirds of the culverts crossing salmon streams provided inadequate fish passage; eighty-five percent of the culverts crossing trout streams provided inadequate fish passage.

Out of an estimated \$20 million backlog to fix more than 700 culverts that block safe fish passage, the Forest Service has been budgeting only one half million dollars per year to fix these failing roads. At this rate, it would take 40 years to fix current fish passage problems on the Tongass. Instead of this resolution, the Alaska Legislature should call for sufficient federal funding to fix these culverts---providing jobs for Southeast Alaskans and safe passage for wild salmon so important to our commercial and sports fishermen. The Forest Service needs to use its shrinking budget to maintain its existing road network instead of punching new roads and clearcuts into roadless areas.