



Frank H. Murkowski

United States Senator-Alaska (1981-2002)
Governor of the State of Alaska (2002-2006)

December 2, 2019

The Honorable Sonny Perdue
Secretary
US Department of Agriculture
1400 Independence Ave, SW
Washington D.C. 20250

Thank you for the significant time that you and the Department (USDA) have devoted to moving forward the current Alaska-specific Rulemaking, the purpose of which is to restore responsible, multiple-use management of resources on the Tongass National Forest.

There follow my comments on the Draft Environmental Impact Statement (DEIS) to implement the Alaska-specific Roadless Rule. Total Exemption is what the Walker Administration requested in its Petition for rulemaking and it is the alternative that I urge you to adopt. USDA should not pick winners and losers by denying road access for one resource user group in order to set aside "special areas" for another resource user group. As Congress reaffirmed in the National Forest Management Act of 1976, multiple use management is the organizing principle of National Forests. Preservation is the organizing principle of National Parks.

**WHY TOTAL EXEMPTION OF THE TONGASS NATIONAL FOREST
FROM THE 2001 ROADLESS RULE IS GOOD PUBLIC POLICY**

The 2001 Roadless Rule was the fourth time significant areas of the Tongass were set aside by the national government. Prior to promulgation of the Roadless Rule the Tongass had undergone two Congressional reviews (ANILCA and TTRA) and

a 1999 USDA Secretarial review that had set aside over 6.8 million acres of the Tongass in Wilderness and other restrictive land use categories. The USDA rulemaking included a separate Tongass decision, but the Roadless Rule's general statement of Purpose and Need did not explain the need for a fourth "national level, whole picture" review of the Tongass.

My Administration stressed this point in settling the lawsuit with USDA that Governor Knowles had filed in 2001. We also pointed to the facts that denying road access to 9.2 million acres violated the "No More" clause of ANILCA and deprived the Forest Service of its ability to seek to meet the market demand for timber as required by the TTRA. Finally, we emphasized the adverse socioeconomic impacts caused by the Rule.

In 2003 the USDA agreed to temporarily exempt the Tongass from the Roadless Rule because "the roadless values on the Tongass are sufficiently protected under the Tongass Forest Plan and the additional restrictions associated with the roadless rule are not required." The 2003 Regulation also stated:

The Department has concluded that the social and economic hardships to Southeast Alaska outweigh the potential long-term ecological benefits because the Tongass Forest plan adequately provides for the ecological sustainability of the Tongass. Every facet of Southeast Alaska's economy is important and the potential adverse impacts from application of the roadless rule are not warranted, given the abundance of roadless areas and protections already afforded in the Tongass Forest Plan.

USDA's substantive, policy determination has never been challenged and is as true today as it was then. Given that 6.8 million acres of the Tongass will still remain in Wilderness and other Congressionally designated restricted land categories thereafter, you were right to choose Alternative 6, Total Exemption from the Roadless Rule as the preferred alternative. Denying access to an additional 9.2 million acres of the Tongass by Roadless Area designation creates a gross imbalance. We don't need 16.2 million acres of the 16.9 million acre Tongass National Forest to be "protected" from the Alaskans who live in Southeast Alaska.

Nevertheless, some Southeast Alaska based environmental groups contend that denying road access to almost the entire Tongass (an area the size of West Virginia) is the only way to "protect" it. They have convinced many people that Total Exemption will result in extensive clearcutting. This is not the case. The Tongass Land and Resource Management Plans will continue to protect the Tongass through multiple use management. Selection of the Total Exemption alternative will only restore 185,000 acres to the suitable timber land base which will do nothing more

than restore flexibility to the timber sale program by allowing more economic timber to be offered for sale. The allowable sale quantity will remain at the level set in the 2016 Tongass Transition Plan.

USDA's REJECTION IN THE DEIS's APPENDIX G OF THE LANGUAGE PROPOSED BY CAC TO IMPLEMENT ITS RECOMMENDED NEW EXCEPTIONS FOR THE ALASKA-SPECIFIC ROADLESS RULE LEAVES NO VIABLE ALTERNATIVE EXCEPT TOTAL EXEMPTION

The need for, and benefits of, providing access to resources in the Tongass is confirmed and reinforced by the Citizens' Advisory Committee (CAC) established by Governor Walker pursuant to the State's Memorandum of Understanding with USDA to inform the State in its role as a cooperating agency in the NEPA process. Thirteen Committee members were selected by Governor Walker to represent a diversity of perspectives, including Alaska Native corporations and tribes, fishing, timber, conservation, tourism, utilities, mining, transportation, local government, and the State Division of Forestry.

The CAC developed comprehensive new exceptions (and language to implement them) for the Alaska-specific Roadless Rule that it recommended be included in *each* alternative (2 – 5) set out in the DEIS, other than the “No Action” alternative:

Roadless Area Exceptions Across the Forest

The Committee developed a list of exceptions that serve as an integral part of each of the four options.

While the land base options vary, the Committee members agreed to include the Roadless Area exceptions for analysis **in all of the options put forward by the Committee.** (Page 4). (Emphasis added).

New exceptions 8 - 16 proposed by the CAC to be added to 36 C.F.R. § 294.12 for the Alaska-specific Roadless Rule (and language to implement them) are set out at pages 7 and 8 of the CAC Report and new exceptions 1 - 8 to be added to 36 C.F.R. § 294.13 for the Alaska-specific Roadless Rule (and language to implement them) are set out at pages 8 - 10 of the CAC Report. Some examples of the new exceptions proposed by the CAC for the Alaska-specific Roadless Rule

1. While “reasonable” access is allowed for mining in IRAs, mining explorers often need **road access** to get heavy equipment from tidewater to a Project site or to otherwise proceed with economically exploring and developing a mine

or a hydro facility. Accordingly, road access for mining exploration and development and for renewable energy projects within IRAs should be presumptively authorized in the same way as if the mining or renewable energy project were in a non-IRA area.

2. Road access to renewable energy projects in IRAs (including geothermal to which road access is currently prohibited in IRAs) should be presumptively authorized in the same way as if the mining or renewable energy project were in a non-IRA area. Renewable energy could then replace diesel power in rural Southeast communities or be available to power mining exploration and/or mine development.
3. The Transportation and Utility System Land Use Designation that was eliminated in the 2016 Tongass Transition Plan should be restored to allow implementation of the State's Southeast Transportation Plan.
4. Road access between communities should be authorized notwithstanding the existence of IRAs between them.
5. Cutting and removal of trees incidental to mining and renewable energy projects should be authorized in IRAs under the Alaska-specific Roadless Rule in the same way it is authorized in a non-IRA area

The CAC provided language to implement each of the new exceptions 8 - 16 that it proposed be added to 36 C.F.R. § 294.12 for the Alaska-specific Roadless Rule (see pages 7 and 8 of the attached Report) and new exceptions 1 - 8 that it proposed be added to 36 C.F.R. § 294.13 for the Alaska-specific (see pages 8 - 10 of the attached Report). However, the CAC exception language that the State provided to USDA was not included in *any* alternative. (See Appendix G, alternatives 2 - 5).

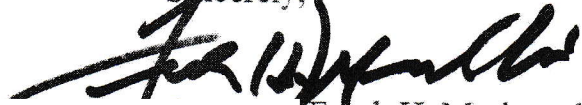
Instead, each road exception is preceded by the words **“if the Responsible Official determines that ... a road is needed,”** thereby leaving it up to the Forest Service to make the determination about whether a road is needed without any criteria for doing so. This is the existing situation already covered by the “No Action” alternative. It is exactly the situation to which the CAC recommendations were intended to provide regulatory certainty and predictability. Accordingly, the relief from the Roadless Rule access prohibitions that the CAC's new exceptions were intended to provide for communities, renewable energy, and mining is only provided by the Total Exemption alternative.

Because attaining the social and economic benefits of the CAC's proposed new exceptions for the Alaska-specific Roadless Rule is the reason the State of Alaska, its Congressional Delegation and the Coalition sought this rulemaking,

and because Total Exemption (alternative 6) is the only alternative that would result in implementation of these recommendations, I urge you and USDA to adopt Alternative 6 – the Total Exemption Alternative - as the Final Rule.

I would also very much appreciate an explanation why Appendix G rejected the language recommended by the CAC to implement its proposed new exceptions for alternatives 2 – 5 of the Alaska-specific Roadless Rule as requested by the CAC.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski", written over a horizontal line.

Frank H. Murkowski