



United States  
Department of  
Agriculture

Forest  
Service

Alaska Region

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224 Gold Street  
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Southeast Alaska  
Conservation Council

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Dear Mr. Lindekugel:

This letter is to inform you of my decision not to proceed with a regional supplement to *Forest Service Manual (FSM) 2800, Mining in Admiralty Island and Misty Fiords National Monuments*. The Alaska Region proposed the supplement in late July, requested public comment on it, and invited affected tribes and Alaska Native corporations to request formal consultation on the proposal.

This decision was reached in response to comments received from the public, including yours. Nearly all parties submitting comments opposed the proposed supplement. Many reviewers suggested that existing law and regulation is adequate to guide decisions on future projects related to mining in the national monuments on the Tongass National Forest. Several respondents indicated that a supplement to the Forest Service Manual is not the proper mechanism for codifying legal interpretations and many stated the proposed supplement would impede, rather than facilitate, decision making on future projects. Others believed the supplement would lead to more litigation on these projects, rather than less.

None of these effects were intended. I am persuaded, therefore, that the proposed supplement will not accomplish its objectives. Accordingly, the Alaska Region will not finalize the proposed supplement to FSM 2800. Future decisions on activities related to mining in the national monuments on the Tongass will continue to be guided by existing law, regulation, and agency policy direction, as previous decisions have been.

While I have concluded that additional policy direction is not necessary, there are two matters worth clarifying. First, some reviewers objected to the provisions in the proposed manual supplement dealing with the authority of the Forest Supervisor to make findings related to leasing decisions as required by Section 503(i) of the Alaska National Interest Lands Conservation Act (ANILCA). Such authority has already been delegated to the Forest Supervisor; the proposed manual supplement would have merely documented that delegation in the same part of the FSM as other direction related to mining in the national monuments on the Tongass. Thus, the Forest Supervisor will continue to be the official charged with making the determinations required by ANILCA.



Second, considerations of feasibility of mitigation measures and alternatives considered in environmental documents will be guided by existing law and regulation, including the regulations promulgated by the USDA to implement Section 503 of ANILCA (found at 36 C.F.R. § 228.80) and the regulations implementing the National Environmental Policy Act (found at 40 C.F.R. 1500). Specifically, feasibility analyses will meet the requirements of 36 C.F.R. § 228.80(c); they will not use reasoning similar to the “prudent man test” referenced in the proposed manual supplement, and analysis by a Certified Mineral Examiner is not required. However, in compliance with 36 C.F.R. § 1502.22, environmental impact statements (EISs) must include sufficient information to determine whether mitigation measures included in the alternatives considered are feasible, without requiring information that would impose exorbitant costs to obtain. I expect the feasibility of alternatives considered in EISs to be identified and analyzed in Draft EISs, without releasing any proprietary information, to allow the public the opportunity to review how the feasibility affects a reasoned choice among alternatives.

If you have any questions, please contact Sarah Samuelson, Geologist – R10 Liaison, Minerals & Geology Management, at [ssamuelson@fs.fed.us](mailto:ssamuelson@fs.fed.us) or 907-586-7886.

Sincerely,



BETH G. PENDLETON  
Regional Forester

cc: Forrest Cole, Jim Ustasiewski, Chad VanOrmer, Jeff DeFreest