

Southeast Conference

Resolution 17-08

SOUTHEAST CONFERENCE RESOLUTION REQUESTING CONGRESSIONAL RELIEF FROM THE TONGASS TRANSITION PLAN AND THE 2001 ROADLESS RULE

WHEREAS, the Tongass National Forest Plan Amendment, known as the Tongass Transition Plan, which came into effect during the final days of the Previous Administration, and interlocks with the 2001 Roadless Rule, which came into effect during the final days of the Clinton Administration, to preclude roadbuilding and timber harvest of Old Growth timber and to preclude or limit roadbuilding for the development of renewable energy projects and mining exploration and development on 9.6 million acres of the Tongass National Forest; and

WHEREAS, when the acreage set aside by the Transition Plan and Roadless Rule is combined with the 4.5 million acres of the Tongass National Forest designated as Wilderness by the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) and the 1.1 million acres of the Tongass National Forest designated as Wilderness and LUD II by the Tongass Timber Reform Act of 1990 (TTRA), resource development is limited or prohibited on approximately 15.2 million acres of the 16.9 million acre Tongass National Forest; and

WHEREAS, the Statehood Act of 1958 made a compact with the people of Alaska to provide for themselves and Alaska through reasonable resource development; and

WHEREAS, Section 101 (d) of ANILCA finds that the land it set aside and the land remaining open to development “represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate or more intensive use and disposition;” and

WHEREAS, Section 1326 (a) of ANILCA provides that the executive branch may withdraw “No More” than 5,000 acres of public land without a joint resolution of approval by Congress; and

WHEREAS, the State of Alaska is currently litigating the application of the 2001 Roadless Rule to the Tongass National Forest on the ground, among others, that it violates the No More clause of ANILCA; and

WHEREAS, the Alaska Congressional Delegation has introduced legislation that would repeal the application of the Roadless Rule to the Tongass National Forest; and

WHEREAS, because the Tongass Transition Plan precludes timber harvest and precludes or limits renewable energy development and mining and exploration development on the same 9.6 million acres of Inventory Roadless Areas to which the Roadless Rule applies, it is necessary to also terminate the Tongass Transition Plan, i.e. getting rid of one without getting rid of the other does not solve the problem; and

WHEREAS, at page 12 of the Record of Decision for the Tongass Transition Plan the Forest recognizes that the young growth timber to which the Plan requires the timber industry to transition is currently neither economic nor marketable; and

WHEREAS, at page 23 of its May 2010 *Economic Analysis of Southeast Alaska* the Forest Service explains:

Young growth management is not currently economically viable without substantial public investments to pay for thinning. This is because the vast majority of young growth currently

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available on the developed land base is too young and small to generate profits in excess of the logging and transportation costs used in this analysis.

But the Transition Plan fails to provide a basis for assuming that *substantial public investments to pay for thinning* will be proposed to the President by USDA or made available by Congress; and

WHEREAS, there are a number of infrastructure projects essential to renewable energy development on the Tongass that are authorized by ANILCA and allowable under the 2008 Amended Plan Transportation and Utility System (TUS) Overlay LUD that would be restricted by the Tongass Transition Plan Renewable Energy Standard and Guidelines or the Transportation Systems Corridors Direction – for example, pipelines, communication systems, and more; and

WHEREAS, for the foregoing reasons the combination of the 2001 Roadless Rule and the Tongass Transition Plan presents a major barrier to reasonable resource development in Southeast Alaska; and

WHEREAS, for the foregoing reasons twenty-seven individuals, statewide organizations, and Southeast Alaska business entities - including Governor Bill Sheffield, Governor Frank H. Murkowski, Former R-10 Regional Forester John Sandor, Former R-10 Regional Forester and Alaska Commissioner of the Department of Transportation and Public Facilities Mike Barton, Former R-10 Deputy Regional Forester Steve Brink, Former R-10 Director of Minerals John Kato, The Southeast Conference, The City of Craig, the Ketchikan Gateway Borough, The City and Borough of Wrangell, Alaska Power & Telephone Inc., the Alaska Miners' Association, The Resource Development Council of Alaska, The Alaska Chamber, The Juneau Chamber of Commerce, Southeast Roadbuilders, Inc., Icy Straits Lumber and Milling Inc., Alaska Electric Light & Power, Inc., Tyler Rental Inc., Alaska Marine Lines Inc., the First Things First Foundation, The Greater Ketchikan Chamber of Commerce, DuRette Construction Company, Inc., Hyak Mining Co., Inc., First Bank of Ketchikan, Southeast Stevedoring Company - formally requested that Senator Murkowski work with Congress and the new Administration to place a moratorium on application of the Tongass Transition Plan to the Tongass National Forest; and

WHEREAS, the Transition Plan can be repealed by a Resolution of Disapproval under the Congressional Regulatory and Review Act 5 U.S.C. § 801,802, and 804 (CRA); and

WHEREAS, the 1997 Tongass Land Management Plan was determined by the Government Accountability Office (GAO) to be a Rule for purposes of the CRA. In the same way, the Tongass Transition Plan is a Rule for purposes of the CRA. If the CRA is used to eliminate the Transition Plan, it cannot be filibustered, litigated by opposition groups, and “a new rule that is substantially the same as [the disapproved rule] may not be issued” 5 U.S.C. § 801(b)(2); and

WHEREAS, Senator Murkowski has submitted a letter to GAO requesting a determination whether the Tongass Transition Plan is a Rule for CRA purposes; and

WHEREAS, the GAO has told Senator Murkowski that it will take it four months to render a decision; and

WHEREAS, the conference is concerned that a GAO decision delayed until June will run into the July and August Congressional recesses, at which time tax, healthcare, and budget issues will make it difficult for there to be sufficient Floor time for the Congress to consider a Resolution of Disapproval regarding the Tongass Transition Plan; and

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WHEREAS, section 801 of the CRA would apparently recognize the Tongass Transition Plan as a Rule were it to be submitted as a Rule to the Comptroller General by the Secretary of Agriculture, thereby allowing a Resolution of Disapproval to be considered before the Floor time that national legislation will take in September and October; and

NOW THEREFORE BE IT RESOLVED, that the Southeast Conference expresses its support and appreciation to the Alaska Congressional Delegation for the legislation it has introduced in Congress that would repeal the application of the 2001 Roadless Rule to the Tongass National Forest; and

BE IT FURTHER RESOLVED, that the Southeast Conference expresses its support and appreciation to Governor Walker for his Administration's endeavor to terminate the application of the 2001 Roadless Rule to the Tongass National Forest through litigation; and

BE IT FURTHER RESOLVED, that the Southeast Conference expresses its support and appreciation to Senator Murkowski for submitting a letter to GAO requesting a determination whether the Tongass Transition Plan is a Rule for CRA purposes; and

BE IT FURTHER RESOLVED, that the Southeast Conference urges the Congressional Delegation to ask the incoming Secretary of Agriculture to submit the Tongass Transition Plan to the Comptroller General as a Rule for CRA purposes

ADOPTED BY THE SOUTHEAST CONFERENCE BOARD OF DIRECTORS ON, March 15, 2017 AND THIS RESOLUTION WILL SUNSET ON, March 15, 2018

Witness by:



Chelsea Goucher
President

Attest:



Shelly Wright
Executive Director